

FILE COPY

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1953

No. 271

WILLIAM ADAMS, PETITIONER,

vs.

STATE OF MARYLAND

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE
OF MARYLAND

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[fol. 1] **APPENDIX TO APPELLANTS BRIEF**

IN THE CRIMINAL COURT OF BALTIMORE

WILLIAM ADAMS, Petitioner,

vs.

STATE OF MARYLAND

DOCKET ENTRIES

Docket 1951, May Term

Number 3393

Charge: Conspiracy

Prosecuting Witness—Captain A. Emerson

Appearance of Joseph H. A. Rogan and J. Francis Ford, Attorneys as to Adams. E. L. Perkins and R. Palmer Ingram, Attorneys as to Rouse—Filed.

August 15, 1951. Presentment filed — e. d. — Capias Issued—Cepi, on Bail.

August 16, 1951. Recognizance taken as to Adams, V. G. Adams—\$5,000.00 As to Rouse, A. Gatewood and E. Bass—\$10,000.00.

August 24, 1951. Indictment filed. Copy of Indictment Served. Receipt Filed and Joined by State with Indictment No. 3392.

September 6, 1951. Motion for Discovery filed.

September 27, 1951. Answer to Motion for Discovery filed.

October 2, 1951. Exceptions to Answer to Motion for Discovery filed.

October 29, 1951. Exceptions overruled—Judge Sherbow.

November 7, 1951. Appeal to the Court of Appeals of Maryland on Overruling Exceptions to Answer filed.

November 13, 1951. Ruling on Exceptions filed.

[fol. 2] November 13, 1951. Request of Judge Sherbow that the Attorney General Hall Hammond ask the Court of Appeals to expedite handling of the Appeal in this case.

November 13, 1951. Defendant's Designation of Record filed.

November 13, 1951. Transcript of Record transmitted under seal to Maurice Ogle, Clerk of the Court of Appeals of Maryland, together with check for \$10.00 as filing fee—Receipt filed.

November 13, 1951. Certified copy of Transcript of Record transmitted under seal to Hall Hammond, Attorney General of Maryland.

November 13, 1951. Certified copy of Transcript of Record transmitted under seal to Jos. H. A. Rogan and Francis J. Ford, Attorneys for Appellant.

December 5, 1951. Mandate—Court of Appeals of Maryland—No. 117, October Term, 1951.

WILLIAM ADAMS

vs.

STATE OF MARYLAND

APPEAL FROM THE CRIMINAL COURT OF BALTIMORE—Filed
November 14, 1951

November 23, 1951. Motion to Dismiss Appeal filed.

December 4, 1951. Per Curiam filed—Appeal Dismissed.

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December 12, 1951. As to Adams—Motion to Dismiss filed.

December 13, 1951. As to Rouse—Motion to Dismiss filed.
[fol. 3] December 17, 1951. As to Adams—Answer to Motion to Dismiss filed.

December 17, 1951. As to Rouse—Answer to Motion to Dismiss filed.

December 17, 1951. Nolle Prosequi entered by State as to 2d, 3d, 4th, 5th and 6th Counts.

December 19, 1951. Motion to Dismiss Denied as filed.

December 20, 1951. Arraigned and pleads as to each, Not Guilty.

December 20, 1951. Submits under plea as to each, Not Guilty and Issue before (Sworn Jury) Sherbow, Judge.

December 21, 1951. Verdict: As to each, Guilty 1st Count.

December 21, 1951.—As to each—Sentence suspended pending a Motion for a New Trial.

December 21, 1951. As to each—Take Bail sum \$10,000.00—pending Motion for a New Trial—Sherbow, Judge.

December 21, 1951. Recognizance taken—as to Adams v. Adams—\$10,000.00.

December 21, 1951. Recognizance taken—as to Rouse—S. Watkins, and M. Berman—\$10,000.00.

December 26, 1951. Motion for a New Trial filed as to Rouse.

December 26, 1951. Motion for a New Trial filed as to Adams.

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February 4, 1952. On February 2, 1952, in the Supreme Bench of Baltimore City, Indictment Number 3393, May Term, 1951, State of Maryland v. William Adams, et al for Conspiracy. Motion for a New Trial Granted and the case remanded for further proceedings.

[fol. 4] March 20, 1952. As to Adams, Motion for Discovery filed.

May 5, 1952. As to Adams, Answer to Motion for Discovery filed.

May 9, 1952. As to Adams, Motion to Dismiss filed.

May 13, 1952. As to Adams, Answer to Motion to Dismiss filed.

May 20, 1952. As to Rouse, Motion for Severance filed.

May 21, 1952. As to Adams, Motion to Dismiss Denied, Mason, Judge.

May 21, 1952. As to Rouse, Motion for Severance Granted, Mason, Judge.

May 23, 1952. As to Adams, Motion to Dismiss Indictment filed.

May 23, 1952. As to Adams, Motion to Dismiss Denied, Mason, Judge.

May 26, 1952. As to Adams, Arraigned and pleads, Not Guilty.

May 26, 1952. As to Adams, Submits under plea, Not Guilty and Issue before Mason, Judge.

May 26, 1952. As to Adams, Verdict: Guilty.

May 26, 1952. As to Adams, Judgment: Sentence suspended pending Motion for a New Trial.

May 26, 1952. As to Adams, take bail in sum of \$10,000.00 pending Motion for New Trial—Mason, Judge.

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May 27, 1952. As to Rouse, Motion to Dismiss Denied—Mason, Judge.

May 27, 1952. Arraigned and pleads, as to Rouse, Not Guilty.

[fol. 5] May 27, 1952. Submits under plea, as to Rouse, Not Guilty and Issue before (Sworn Jury) Mason, Judge.

May 29, 1952. Verdict: As to Rouse Guilty.

May 29, 1952. Sentence suspended pending Motion for New Trial.

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May 29, 1952. As to Adams, Motion for a New Trial filed.

June 2, 1952. As to Rouse, Motion for a New Trial filed.

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November 26, 1952. On November 26, 1952, in the Supreme Bench of Baltimore City, Indictment Number 3393, May Term, 1952, the State of Maryland v. William Adams and Walter Rouse for Conspiring. Motion for a New Trial as to each, Denied.

December 2, 1952. Judgment: As to Adams, Seven (7) Years in the Maryland Penitentiary and Fined \$2,000.00 and Costs, Consecutive. Sentence suspended pending an Appeal to the Court of Appeals of Maryland (Mason, Judge).

December 2, 1952. Judgment: As to Rouse Three (3) Years in the Maryland Penitentiary and Fined \$2,000.00 and Costs. Consecutive. Sentence suspended pending an Appeal to the Court of Appeals of Maryland (Mason, Judge).

December 2, 1952. As to each: Take bail in the sum of

\$20,000.00 pending an Appeal to the Court of Appeals of Maryland.

December 2, 1952. Recognizance as to Adams taken by: Robert J. and Matilda Young, \$20,000.00.

[fol. 6] December 2, 1952. Recognizance as to Rouse taken by: (1) Vernice H. Wynn (2) John Wherby (3) Alonzo R. and Doretha Myers (4) Harry and Esther Goldscheider and (5) Carrie Hament.

December 2, 1952. As to each: An Appeal to the Court of Appeals of Maryland filed.

December 11, 1952. As to Adams, Designation of Record on Appeal to the Court of Appeals of Maryland filed.

December 20, 1952. As to Rouse, Designation of Record on Appeal to the Court of Appeals of Maryland filed.

IN THE CRIMINAL COURT OF BALTIMORE, MAY TERM, 1951

PRESENTMENT 3392—Filed August 15, 1951

The Jurors of the State of Maryland, for the body of the City of Baltimore, do on their oath present William Adams and certain persons unknown to the Jurors aforesaid did on the 20th day of August 1949 and thence continually until the 15th day of August 1951, unlawfully conspire together unlawfully to violate the Lottery Laws of the State of Maryland*

IN THE CRIMINAL COURT OF BALTIMORE, MAY TERM, 1951

PRESENTMENT 3392, 3393—Filed August 24, 1951

The Jurors of the State of Maryland, for the body of the City of Baltimore, do on their oath present that William Adams and Walter Rouse alias John Roush did on the 1st day of August 1947 and thence continually until the 15th day of August 1951, unlawfully conspire together and with

* Then follows list of 23 witnesses. Maurice Jones, 710 Peach Orchid Lane, Turner Station, included therein.

certain other persons unknown to the Jurors aforesaid to [fol. 7] violate the Lottery Laws of the State of Maryland.*

IN THE CRIMINAL COURT OF BALTIMORE, MAY TERM, 1951

PRESENTMENT 3393—Filed August 15, 1951

The Jurors of the State of Maryland, for the body of the City of Baltimore, do on their oath present that William Adams and Walter Rouse alias John Roush did on the 20th day of August 1949 and thence continually until the 15th day of August 1951, unlawfully conspire together and with certain other persons unknown to the Jurors aforesaid to violate the Lottery Laws of the State of Maryland in said City of Baltimore, and State of Maryland.*

IN THE CRIMINAL COURT OF BALTIMORE

INDICTMENT—Filed August 24, 1951

STATE OF MARYLAND,

City of Baltimore, to wit:

The Jurors of the State of Maryland, for the body of the City of Baltimore do on their oath present that William Adams and Walter Rouse otherwise called John Roush late of said City, on the first day of August, in the year of our Lord nineteen hundred and forty-seven, at the City aforesaid and thence continually until the fifteenth day of August, in the year of our Lord nineteen hundred and fifty-one, at the City aforesaid, unlawfully conspired together, and with certain other persons to the Jurors aforesaid unknown, unlawfully to violate the lottery laws of the State of Maryland, contrary to the form of the Act of Assembly in such case made and provided and against the peace government and dignity of the State.

* Then follows list of 23 witnesses. Maurice Jones, 710 Peach Orchid Lane, Turner Station, included therein.

[fol. 8]

Second Count

And the Jurors aforesaid, upon their oath aforesaid, do further present that the said William Adams and Walter Rouse otherwise called John Roush on the first day of August, in the year of our Lord nineteen hundred and forty-seven, and thence continually until the fifteenth day of August, in the year of our Lord nineteen hundred and fifty-one, at the City aforesaid, unlawfully conspired together, and with certain other persons to the Jurors aforesaid unknown unlawfully to sell lottery tickets to a certain person to the Jurors aforesaid unknown contrary to the form of the Act of Assembly in such case made and provided, and against the peace, government and dignity of the State.

Third Count

And the Jurors aforesaid, upon their oath aforesaid do further present that the said William Adams and Walter Rouse otherwise called John Roush on the first day of August, in the year of our Lord nineteen hundred and forty-seven, and thence continually until the fifteenth day of August, in the year of our Lord nineteen hundred and fifty-one, at the City aforesaid, unlawfully conspired together, and with certain other persons to the Jurors aforesaid unknown unlawfully to keep a certain place to wit: a room for the purpose of selling lottery tickets contrary to the form of the Act of Assembly in such case made and provided, and against the peace, government and dignity of the State.

Fourth Count

And the Jurors aforesaid, upon their oath aforesaid do further present that the said William Adams and Walter Rouse otherwise called John Roush on the first day of August, in the year of our Lord nineteen hundred and forty-seven and thence continually until the fifteenth day of August, in the year of our Lord nineteen hundred and fifty-one, at the City aforesaid unlawfully conspired to-
[fol. 9] gether, and with certain other persons to the Jurors aforesaid, unknown, unlawfully and knowingly to permit certain rooms there situate, of which they were then and there the owners, then and there to be used as a place for

selling lottery tickets, contrary to the form of the Act of Assembly in such case made and provided and against the peace, government and dignity of the State.

Fifth Count

The Jurors of the State of Maryland, for the body of the City of Baltimore do on their oath present that William Adams and Walter Rouse otherwise called John Roush late of said City, on the first day of August in the year of our Lord nineteen hundred and forty-seven and thence continually until the fifteenth day of August in the year of our Lord nineteen hundred and fifty-one, at the City aforesaid, unlawfully conspired together, and with certain other persons to the Jurors aforesaid unknown, unlawfully to have in their possession divers books, lists, slips and records of numbers drawn in a lottery; divers books, lists, slips and records of lottery tickets, divers books, lists, slips and records of money which had been received, and which was to have been received from the sale of lottery tickets, and things in the nature thereof; and divers things by which it was promised and guaranteed that particular numbers, characters, tickets and certificates would in a certain event, and upon the happening of a certain contingency in the nature of a lottery, entitle the purchaser or holder to receive money, property and evidence of debt; they the said William Adams and Walter Rouse otherwise called John Roush, at the time they so there had in their possession in the said books, lists, slips and records of lottery tickets; books, lists, slips and records of money which had been received, and which was to have been received from the sale of the lottery tickets, and things in the nature thereof, and things by which it was promised and guaranteed that particular numbers, characters, tickets and certificates would, in a certain event, and upon the happening of a certain con- [fol. 10] tingency, in the nature of a lottery, entitle the purchaser or holder to receive money, property and evidence of debt, not having the same in their possession for the purpose of procuring and furnishing evidence of the violation of any of the provisions of the law relating to lotteries; contrary to form of the Act of Assembly in such case made

and provided and against the peace government and dignity of the State.

Sixth Count

And the Jurors aforesaid, upon their oath aforesaid, do further present that the said William Adams and Walter Rouse otherwise called John Roush on the first day of August, in the year, of Our Lord nineteen hundred and forty-seven, and thence continually until the fifteenth day of August, in the year of our Lord nineteen hundred and fifty-one, at the City aforesaid, unlawfully conspired together and with certain other persons to the Jurors aforesaid unknown, unlawfully to have in their possession a book of lottery tickets, they the said William Adams and Walter Rouse otherwise called John Roush; at the time they so had the said book of lottery tickets in their possession, not having the same then and there in their possession for the purpose of procuring and furnishing evidence in the violation of any of the provisions of law relating to lotteries; contrary to the form of the Act of Assembly in such case made and provided, and against the peace, government and dignity of the State.

Anselm Sodaro, The State's Attorney for the City of Baltimore.

Upon the back of the foregoing Indictment, was Endorsed as follows:

(True Bill)

(Signed) Harry M. Smyrk, Foreman.

Filed August 24, 1951.

[fol. 11] IN THE CRIMINAL COURT OF BALTIMORE

MOTION TO DISMISS—Filed December 12, 1951

Now comes William Adams, one of the Defendants in the above entitled case by Joseph H. A. Rogan and J. Francis Ford, his Attorneys and moves this Honorable Court to dismiss the indictments numbers 3392 and 3393 and each and

every count hereof returned against him by the Grand Jury of Baltimore City for the following reasons:

I. The indictments do not state facts sufficient to constitute an offense against the State of Maryland and are defective for the following reasons:

A. The indictments do not state sufficient facts in connection with the commission of the offense as will put the accused on full notice of what he is called upon to defend.

B. The Indictments do not state sufficient facts to enable the accused to prepare his defense.

C. The Indictments do not establish such a record as will effectually bar a subsequent prosecution for the identical offense.

D. And for other reasons to be shown at the hearing hereof.

II. The indictments do not charge an offense under the Laws of Maryland for the following reasons:

A. The indictment in its several counts charges:

1. Conspiracy to violate the lottery laws of the State of Maryland.

2. Conspiracy to sell lottery tickets.

3. Conspiracy to keep a room for the sale of lottery tickets.

4. Conspiracy to permit certain rooms owned by the defendants to be used as a place for the sale of lottery tickets.

5. Conspiracy to have in possession divers books, etc., drawn in a lottery; divers books, etc. and records of money [fol. 12] derived from the sale of lottery tickets; divers things by which it was promised and guaranteed that particular numbers, characters, tickets, and certificates would, in a certain event, and upon the happening of a certain contingency in the nature of a lottery, entitle the purchaser or holders to receive money, etc.

6. Conspiracy to possess a lottery book.

B. That the crime of lottery requires for its commission the concurrent action and cooperation of more than one person.

C. That where plurality of agents is logically necessary to the commission of a crime, conspiracy to commit the crime cannot be maintained.

D. That where the concurrent action of two persons is necessary to perpetrate a certain crime, conspiracy to commit the crime is not a distinct offense.

E. That an agreement to commit an offense which can be committed only by the concerted action of the persons to the agreement does not amount to conspiracy.

F. That where a combination between two persons to effect a particular end shall be called, if the end be effected, by a certain name, it is not lawful to call it by some other name to wit: conspiracy.

III. That conspiracy to violate the law is a misdemeanor; that criminal prosecution for misdemeanors in Maryland must be brought within one year from the date of the offense; that the evidence in this case will not disclose any overt act as having been committed in furtherance of any alleged conspiracy within the statutory period of limitations barring such prosecutions.

IV. That the Defendant, William Adams, was tried and acquitted on a charge for violation of the lottery law in a series of indictments numbered 5545, 5546, 5547, 5548, 5549, 5550 on March 20, 1950, and that the co-defendant in this case, Walter Rouse, otherwise called John Roush, was con-[fol. 13] victed under the same series of indictments above referred to; that the Defendant, William Adams should not be tried twice for the same offense; that where the same evidence proves both the combination and the crime, which is the object of the conspiracy, only one offense is committed.

And the Defendant, William Adams, further moves this Honorable Court for appropriate relief to prohibit and exclude from evidence intended to be used by the State, at the trial of this case, the following items:

I. Any testimony or exhibits which the State proposes to produce including search warrants, betting paraphernalia, or any testimony from police officers or any other source concerning the raid conducted by Captain Emerson or any other members of the Police Department of Baltimore City

in connection with the raid on the premises located at 2006 W. North Avenue, on November 19, 1949, for the reason that prior hereto, to wit, on November 19, the Defendant, William Adams was arrested in connection with the above mentioned raid conducted by the Vice Squad of Baltimore City outside the premises known as 2006 W. North Avenue, as a result of which the said William Adams and Walter Rouse, otherwise called John Roush, and other Defendants were indicted and charged with violations of the lottery law of the State of Maryland, in a series of indictments numbered 5545, 5546, 5547, 5548, 5549, and 5550, heretofore referred to, and returned by the Grand Jury of Baltimore City; that the said cases subsequently came on for trial, to wit, on March 20, 1950, before the Honorable Michael J. Manley, one of the Judges of the Supreme Bench of Baltimore City, then presiding in the Criminal Court of Baltimore City, at which time the said William Adams was tried on the general issue plea; that the presiding Judge in finding the Defendant not Guilty, also decided that the search warrant admitted into evidence in the case was entirely too broad; that it did not come within the scope of Article 26 of the Maryland Declaration of Rights and accordingly, struck out all the evidence offered by the State, [fol. 14] which comprised the testimony of Captain Alexander L. Emerson, Officers Willie Runyou, Hubert C. Hogan, as will more fully appear in the Transcript of Record No. 27 October Term of the Court of Appeals of Maryland, 1950, in the case of the State of Maryland v. William Adams a certified copy of which record is hereto attached as an exhibit. The trial court at the conclusion of said testimony in said case, held that the arrest of Defendant William Adams and search and seizure of articles then in his possession were illegal, and found a verdict of not guilty; that subsequently the State of Maryland prosecuted an appeal to the Court of Appeals of Maryland and upon motions properly made by the Defendant, the appeal was dismissed; that the finding of the lower Court, and that of the Court of Appeals of Maryland is the law of the case, and the State of Maryland is estopped in the present case from the use, proffer and introduction of such legally inadmissible evidence which was adjudicated by - this Honorable Court as such, under date of March 20, 1950, upon the trial of the case on the general

issue plea and a verdict and judgment of not guilty, as the same cannot again be used by the State in this case or in any other proceeding, and should not, therefore, again be relitigated.

II: The transcript of testimony of the Defendant, William Adams taken before the Sub-Committee of the Senate of the United States pursuant to Senate Resolution 202 of the 81st Congress, Second Session, the said testimony having been taken under date of July 2, 1951, or the statements of any witnesses who may have been present and heard such testimony at the said hearing before the said Sub-Committee, or information obtained from a seizure of his private books and records compelled to be produced by process for the reason that the said William Adams appeared involuntarily before the said Committee in compliance with the subject to a subpoena and subpoena duces tecum issued by the Chairman of the Committee on Organized Crime, the Committee being authorized by Senate Resolution 202, to require by subpoena or otherwise the attendance of witnesses and the production of such books papers and documents, to administer oaths, and to take [fol. 15] testimony; that the said William Adams having been served with the subpoena was compelled therefore to attend and made to testify as well as produce his private books and records, under threat of possible imprisonment for failure to testify; as is provided by Section 192, Title 2 of the United States Code Annotated, which provided as follows:

“Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint of concurrent resolution of the Two Houses of Congress, or any committee of either House of Congress, wilfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor punishable by a fine of not more than \$1000.00 nor less than \$100.00 and imprisonment in a common jail for not less than one month nor fore than twelve months.” (Amended, 1938.)

That being so compelled to testify and made to produce his private books and records, the Defendant in this case avers that in so testifying and producing his books and records provides for him immunity from self-incrimination under Title 18, Section 3486 of the United States Code Annotated, which provides as follows:

"No testimony given by a witness before either House or before any committee of either House, or before any joint committee established by a joint or concurrent resolution of the two Houses of Congress, shall be used as evidence in any criminal proceeding against him in any court, except in a prosecution for perjury committed in giving such testimony. But an official paper or record produced by him is not within the said privilege. June 25, 1948, 62 Stat. 833."

That to permit and allow the State of Maryland in a criminal case pending against William Adams to use this testimony, statements or circumstances, aforesaid, to be used as evidence in the instant criminal case, would be tantamount to requiring and compelling the Defendant to give evidence against himself in violation of Article 22 of the Declaration of Rights of the Constitution of Maryland, and in violation of his rights under the 5th Amendment of the Constitution of the United States, by compelling this Defendant in this Criminal case to be a witness against himself.

And for other reasons to be shown at the time of the hearing.

(Signed) Joseph H. A. Rogan, (Signed) J. Francis Ford.

IN THE CRIMINAL COURT OF BALTIMORE

ANSWER TO MOTION TO DISMISS—Filed December 17, 1951

The State of Maryland, by Anselm Sodaro, State's Attorney, in answer to Motion to Dismiss filed herein by the defendant, William Adams, says:

In answer to Paragraph I the State says that the indictment is in the form provided for by Art. 27 sec. 43A of the Maryland Code 1947 Supplement, which reads as follows:

"In any indictment or warrant for the crime of conspiracy, it shall be sufficient to use a formula substantially to the following effect: That A-B and C-D on the — day of —, 19—, at the County (City) aforesaid unlawfully conspired together to murder X-Y (or other conspiracy here stating briefly the object of the conspiracy), against the peace, government and dignity of the State."

In answer to Paragraph II the State says that the crime of conspiracy to violate the lottery laws is recognized and provided for by Art. 27 of the Code of Maryland Laws:

[fol. 17] "Sec. 43. No person shall refuse to testify concerning the crime of conspiring to commit any of the offenses set forth in Section 27 of this Article, subtitle "Bribery", or set forth under the Sub-title "Gambling" of this Article or set forth under the Sub-title "Lotteries" of this Article, and any person shall be a competent witness and compellable to testify against any person or persons who may have conspired to commit any of the aforesaid offenses of which such person so testifying may have been guilty or a conspirator therein and about which he was so compelled to testify."

Therefore, the position of the defendant as set forth in Paragraph I (2) falls. Furthermore, the crime of Conspiracy to violate the lottery laws is separate and distinct from the crime of lottery, see *Gilpin v. State*, 142 Md. 464.

In answer to Paragraph III, that conspiracy is a misdemeanor barred within one year by the Statute of Limitations, the State says: (1) that Art. 27 Sec. 42 provides for a period of limitations of two years, and (2) the charge in

this case is a continuing conspiracy and is, therefore, not covered by the aforesaid two year limitation, provided the proof shows that the conspiracy continued into the said period of two years from the finding of the presentment by the Grand Jury, i.e. within two years from August 15, 1951, see *Hitzelberger v. State*, 174 Md. 152, at 162 3.

In answer to Paragraph IV the State says: that William Adams was acquitted of the substantive offense of lottery under Indictments Nos. 5545-6-7-8-9-50 committed on November 14, 15, 16, 17, 18 and 19, 1949 and that Walter Rouse was convicted and sentenced under said indictments but the charge in this case is conspiracy to violate the lottery laws on August 1, 1947 and thence continually until and including the 15th day of August 1951.

Further answering the "Move to Prohibit and Exclude Certain Evidence" the State says that this move is premature. It cannot be made until the offer is made at the [fol. 18] time of the trial to introduce this evidence. However, the allegations of Section I has been fully covered in this answer.

In answer to Section 2 the State says that the immunity granted to witnesses who testify before a Congressional Committee extends only to criminal proceedings in the Federal Courts.

Furthermore, the defendant Adams was compelled to appear before the Congressional Committee but he could not be compelled to incriminate himself; if he did so, that was his own election. See *Bessie Pick v. State*, 143 Md. 192.

The State of Maryland in this case has not made any attempt to require the defendant, William Adams, to produce his personal books and records and does not intend to do so. Therefore, the rule laid down in the case of *Blum v. State*, 94 Md. 375 does not apply.

(Signed) Anselm Sodaro, State's Attorney for Baltimore City.

IN THE CRIMINAL COURT OF BALTIMORE

NOTE RE NOLLE PROSEQUI

MR. CLERK :

The State of Maryland, by Anselm Sodaro, State's Attorney, will enter a Nolle Prosequi to Counts 2, 3, 4, 5 and 6 of Indictment No. 3392, docket 1951 for the reason that Count 1 of said indictment fully covers the charge upon which the defendants will be brought to trial.

(Signed) Anselm Sodaro, State's Attorney for Baltimore City.

[fol. 19] IN THE CRIMINAL COURT OF BALTIMORE

MOTION FOR DISCOVERY—Filed March 20, 1952

To the Honorable, the Judge of Said Court :

And now comes William Adams, one of the Defendants in the above entitled cause, by Joseph H. A. Rogan, and J. Francis Ford, his attorneys and moves the Court in accordance with Rule No. 5 of the Criminal Rules of Practice and Procedure, to require the State's Attorney of Baltimore City to discover unto this Defendant the following information, matters and facts material to his defense.

(1) Describe in detail or produce for copying and inspection any books, records, transcripts of testimony, exhibits, articles of any kind now in the possession of the State's Attorney's Office of Baltimore City, the Police Department, or any other prosecuting officials, intended to be used as evidence in the trial of the case of the State of Maryland v. William Adams under Indictment No. 3392 and No. 3393.

(2) State the names and addresses of all witnesses whom the State of Maryland will produce at the trial to testify against the Defendant, William Adams.

(Signed) Joseph H. A. Rogan, J. Francis Ford.

IN THE CRIMINAL COURT OF BALTIMORE

ANSWER TO MOTION FOR DISCOVERY—Filed May 5, 1952

To the Honorable, the Judge of Said Court:

The State of Maryland by Anselm Sodaro, State's Attorney in answer to the Motion for Discovery filed by William Adams, on March 20th, 1952 says:

(1) The books, records, etc., demanded by said Defendant in Paragraph I, of the Motion for Discovery is identical with the Motion for Discovery filed by said Defendant on [fol. 20] September 6th, 1951. The State answered this demand on September 21st, 1951, as follows:

"This Paragraph would require the State's Attorney to turn over his entire file to Defendant—this demand is far beyond the requirements of Rule 5 in that the defense has demanded material other than written statements made by Defendant, or material obtained by seizure or by process."

The Defendant excepted to the State's answer on October 2, 1951 as follows:

"The information requested in Paragraph 8, of the Motion for Discovery to which the State has declined to furnish an answer is information which is material to the defense of the said William Adams, and is a reasonable request within the meaning of Rule 5 of the New Criminal Rules of Practice and Procedure; that the said information requested should be furnished to the said William Adams with particular reference to any documents or exhibits now in the possession of the State and which the State proposes to use and introduce as evidence in the trial of the said case, and more particularly, any written statements or transcripts of testimony obtained from others by seizure or by process, as upon the hearing of said exceptions, there will be a showing that the items sought may be material to the preparation of his defense and the request is reasonable."

The above exception to the State's answer to Defendant's Motion for Discovery was overruled by Judge Joseph Sherbow on October 29th, 1951, and the Defendant Adams appealed therefrom to the Court of Appeals of Maryland.

The Court of Appeals, dismissed this appeal as being premature.

The State says that the Defendant's counsel have in their possession a copy of all the testimony taken at the former trial of this case before Judge Sherbow on December 20th and 21st, 1951. The State intends upon the retrial of this case to offer all of said testimony except those parts which [fol. 21] the Supreme Bench held to be inadmissible upon the Motion for New Trial.

Furthermore, the State does not have in its possession any papers taken from the Defendant William Adams, nor papers taken from other persons. The State does have in its possession a transcript of William Adams' testimony before the Special Committee to Investigate Organized Crime in Interstate Commerce, U. S. Senate, on Monday, July 2nd, 1951. A copy of this testimony of William Adams at said time and place is in possession of the said defense counsel. Relevant excerpts of this testimony were testified to in the previous trial of this case by Alfred F. Goldstein, Record Page 164, etc., and the State intends to offer the same and possibly additional testimony from said transcript, upon the retrial of this case.

(2) The State in answer to the Demand for names and addresses of witnesses says:

That at present it intends to summons the hereinafter named witnesses, however, the State reserves the right to call any additional witnesses which it may hereafter find to be necessary in order to prove its case. If the need for such witnesses before the time of the trial becomes apparent, the State will promptly furnish defense counsel the names and addresses of such witnesses.

IN THE CRIMINAL COURT OF BALTIMORE

MOTION TO DISMISS—Filed May 9, 1952

Now comes William Adams, one of the Defendants in the above entitled case, by Joseph H. A. Rogan and J. Francis Ford his attorneys and moves this Honorable Court to grant appropriate relief by prohibiting and ex-

cluding from evidence, under Rule 3 of the New Criminal Rules of Practice and Procedure, the following items:

All of the testimony of William Adams, which the State intends to offer as stated in its Answer heretofore filed to the Defendant's Motion for Discovery, contained in a transcript [fol. 22] of said testimony in the possession of the State which was taken before the Special Committee to Investigate Organized Crime in Interstate Commerce, U. S. Senate on Monday, July 2, 1951, or the Statements or testimony of any witnesses who may have been present and heard such testimony at the said hearing, or information obtained from a seizure of the Defendant's private books and records, compelled to be produced by process, for the reason that the said William Adams did not voluntarily appear as a witness before the Committee and that the testimony that he gave was under compulsion, and he was also compelled to produce his books and records. That the said William Adams appeared involuntarily before the Sub-Committee of the United States Senate on July 2, 1951, pursuant to Senate Resolution 202 of the 81st Congress, Second Session, in compliance with and subject to a subpoena and subpoena duces tecum, personally served on said William Adams, and issued by the Chairman of the Committee on Organized Crime, the said subpoenas being hereto attached, the said Committee being authorized by Senate Resolution 202 to require by subpoena or otherwise the attendance of witnesses and the production of such books, papers and documents, to administer oaths, and to take testimony; that the said William Adams having been served with the subpoena was compelled therefore to attend and made to testify as well as produce his private books and records, under threat of possible imprisonment for failure to testify; as is provided by Section 192, Title 2 of the United States Code Annotated, which provided as follows:

"Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the Two Houses of Congress, or any committee of either House of Congress, wilfully makes de-

fault, or who, having appeared, refused to answer any question pertinent to the question under inquiry, shall [fol. 23] be deemed guilty of a misdemeanor punishable by a fine of not more than \$1000 or less than \$100 and imprisonment in a common jail for not less than one month nor more than twelve months." (Amended, 1938.)

That being so compelled to testify and produce his private books and records, the Defendant in this case avers that such testimony and books and records, provided immunity from self-incrimination under Title 18, Section 3486 of the United States Code Annotated, which provided as follows:

"No testimony given by a witness before either House or before any committee of either House or before any joint committee established by a joint or concurrent resolution of the two Houses of Congress, shall be used as evidence in any criminal proceeding against him in any court, except in prosecution for perjury committed in giving such testimony. But an official paper or record produced by him is not within the said privilege. June 25, 1948, c. 745, 62 Stat. 833."

That to permit and allow the State of Maryland in a criminal case pending against William Adams to use this testimony, statements or information secured from his records, obtained under the circumstances, aforesaid, to be used as evidence in the instant criminal case, would be tantamount to requiring and compelling the Defendant to give evidence against himself in violation of Article 22 of the Declaration of Rights of the Constitution of Maryland, and in violation of his rights under the 5th Amendment of the Constitution of the United States, by compelling this Defendant in this criminal case to be a witness against himself.

And for other reasons to be shown at the time of the hearing.

(Signed) Joseph H. A. Rogan, J. Francis Ford, Attorneys for Defendant, William Adams.

[fol. 24]

SUBPOENA DUCES TECUM

UNITED STATES OF AMERICA, CONGRESS OF THE UNITED STATES

To William L. Adams, 1926 Pennsylvania Avenue, Baltimore, Maryland:

Greeting:

Pursuant to lawful authority you are hereby commanded to appear before the special Committee on Organized Crime in Interstate Commerce of the Senate of the United States, on June 21st, 1951, at 10:00 o'clock a.m., at their committee room 900 Federal Housing Loan Bank Bldg., Washington, D. C., then and there to testify what you may know relative to the subject matters under consideration by said Committee, and bring with you:

1. All ledgers, vouchers, cancelled checks, check stubs, bank deposit slips, bank statements, financial statements, notes, copies of tax returns, records of accounts receivable and payable and records of cash receipts and disbursements, for the period from January 1, 1940 to date;

2. All books, records or other documents showing ownership of, or other holding or interest in any business, company, or enterprise, or in any property, real, personal or intangible, for the period from January 1, 1940 to date;

3. All correspondence relating to the subject matter referred to in paragraph 2 hereof, for the period from January, 1, 1940 to date.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To E. H. Farrell, Jr., to serve and return.

[fol. 25] Given under my hand, by order of the Committee, this 15th day of June, in the year of our Lord One thousand nine hundred and fifty-one.

Chairman, Committee on Organized Crime in Interstate Commerce.

SUBPOENA

UNITED STATES OF AMERICA, CONGRESS OF THE UNITED STATES

To William L. Adams, 1926 Pennsylvania Avenue, Baltimore, Maryland.

GREETINGS:

Pursuant to lawful authority, You Are Hereby Com-manded to appear before the Special Committee on Or-ganized Crime in Interstate Commerce of the Senate of the United States, on June 27th, 1951, at 10:00 o'clock a. m., at their committee room 457 Senate Office Building, Wash-ington, D. C., then and there to testify what you may know relative to the subject matters under consideration by said Committee.

Hereof Fail Not, as you will answer your default under the pains and penalties in such cases made and provided.

To E. H. Farrell, Jr., to serve and return.

Given under my hand, by order of the Committee, this 15th day of June, in the year of our Lord one thousand nine hundred and Fifty-one.

Chairman, Committee on Organized Crime in Inter-state Commerce.

[fol. 26] IN THE CRIMINAL COURT OF BALTIMORE

ANSWER TO MOTION TO DISMISS—Filed May 13, 1952

The State of Maryland by Anselm Sodaro, State's Attor-ney for the City of Baltimore, in answer to the Motion to Dismiss filed by William Adams on May 9, 1952, says:

The defendant, William Adams, was compelled to ap-pear before the Senate Investigating Committee, but was not compelled to incriminate himself. Many witnesses who received similar summonses before the Senate Committee refused to testify on the ground that such testimony would

incriminate themselves and William Adams had the same opportunity had he so elected.

The contention that the State intends to use such part of his evidence procured through the summons of the Senate Committee requiring William Adams to produce his private books and records is without foundation. The State, at the previous trial, did not produce any such evidence and does not propose to do so at the coming trial.

The United States Government is entirely without power to grant by Congressional action immunity in a State Court. The immunity granted witnesses under Title 2, U. S. C. Sec. 192 applies only to immunity for such witness in a court of the United States.

Having fully answered the contentions of the defense, the State asks that the Motion to Dismiss be denied.

(Signed) Anselm Sodaro, State's Attorney for Baltimore City.

IN THE CRIMINAL COURT OF BALTIMORE

MOTION OF WALTER ROUSE FOR SEVERANCE AND GRANTING THEREOF—Filed May 20, 1952

Now comes the Traverser, Walter Rouse, by R. Palmer Ingram and Ernest L. Perkins, his attorneys, and requests a Severance in the indictment against him, to the end, that he, Walter Rouse, may be tried separately and apart and [fol. 27] not jointly with the said William L. Adams, and for cause therefore says that:

1. The interests of the said Walter Rouse are apart and distinct from the interests of William L. Adams.
2. That Counsel for the said Walter Rouse is not the same Counsel of William L. Adams.
3. That the State has in its possession certain statements made by the said William L. Adams which if offered and admitted in a joint trial of the two Traversers, will be distinctly harmful and in violation of the rights guaranteed to him by the Constitution of the United States.
4. And for such other reasons as may be proffered at the hearing upon the within Motion.

And, as in duty bound, etc.

(Signed) R. Palmer Ingram, Ernest L. Perkins, Attorneys for Walter Rouse.

Upon the back thereof, was Endorsed, as follows: May 21, 1952—Motion for Severance Granted.

(Signed) E. Paul Mason, Judge.

IN THE CRIMINAL COURT OF BALTIMORE

MOTION TO DISMISS—Filed May 23, 1952

Now comes William Adams, one of the Defendants in the above entitled case by Joseph H. A. Rogan and J. Francis Ford, his attorneys, and moves this Honorable Court to dismiss the indictments returned against him by the Grand Jury of Baltimore City, indictments numbered No. 3392 and No. 3393, for the following reasons:

[fol. 28] I. The indictment does not charge an offense under the laws of the State of Maryland for the following reasons:

(1) That the crime of lottery requires for its commission the concurrent action and cooperation of more than one person.

(2) That where plurality of agents is logically necessary to the commission of a crime, conspiracy to commit the crime cannot be maintained.

(3) That where the concurrent action of two persons is necessary to perpetuate a certain crime, conspiracy to commit the crime is not a distinct offense.

(4) That an agreement to commit an offense which can be committed only by the concerted action of the persons to the agreement does not amount to conspiracy.

(5) That where a combination between two persons to effect a particular end shall be called, if the end be effected, by a certain name, it is not lawful to call it by some other name.

II. That conspiracy to violate the law is a misdemeanor; that criminal prosecution for misdemeanors in Maryland

must be brought within one year from the date of the offense; that the indictment alleges that the conspiracy continued from August 1, 1947, to August 15, 1951.

III. That the Defendant was tried and acquitted of a charge of violating the lottery laws in a series of indictments numbered 5545, 5546, 5547, 5548, 5549 and 5550, on March 20, 1950, and that he should not be tried twice for the same offense.

And for other reasons to be shown at the time of the hearing.

(Signed) Joseph H. A. Rogan, J. Francis Ford, Attorneys for Defendant William Adams.

[fol. 29] Endorsed Thereon, as follows: "5/26/52—Motion to Dismiss Denied.

(Signed) E. P. M.", Judge.

IN THE CRIMINAL COURT OF BALTIMORE

ANSWER TO MOTION TO DISMISS

The State of Maryland, by Anselm Sodaro, the State's Attorney for the City of Baltimore, in answer to the Motion to Dismiss filed by William Adams on May 23, 1952, says:

The Subject matter of this Motion to Dismiss was overruled by Judge Sherbow on December 19, 1951 after Answer filed by the State and after full hearing. Furthermore, the Supreme Bench, on the Motion for New Trial filed by William Adams, found, in effect, that Judge Sherbow's aforesaid ruling was correct and proper.

Having fully answered the Motion to Dismiss the State asks that it be denied.

(Signed) Anselm Sodaro, State's Attorney for Baltimore City.

IN THE CRIMINAL COURT OF BALTIMORE

Baltimore, Maryland,
May 26, 1952.

Before Honorable E. Paul Mason, Judge, Without a Jury

TRANSCRIPT OF TESTIMONY AT TRIAL

APPEARANCES

William H. Maynard, Esq., Deputy State's Attorney, and
William C. Rogers, Jr., Esq., Assistant State's Attorney
on behalf of the State.

[fol. 30] Joseph H. A. Rogan, Esq., and J. Francis Ford,
Esq., Attorneys on behalf of the defendant.

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COLLOQUY

The Clerk: The motion to dismiss was filed Friday.

Mr. Maynard: I filed an answer Friday.

The Court: Gentlemen, I will hear you on this Motion, and I might say this. Of course these very same questions had been before the Court not only once but many times, and in every one of these conspiracy cases—

Mr. Ford: We don't want to make any extended argument in the case. We know the Court has passed on it, and of course the Court of Appeals has not, and we want this in the record.

The Court: Is there anything specially applying to this case that I should hear you on outside of the general rulings with respect to the questions that you raise? Is there any question of fact you want to bring to my attention, or something that is special in this particular case that would be different from any conspiracy case?

Mr. Rogan: The only question we have in mind is with respect to the State's attempt to introduce the Washington testimony.

The Court: Well I have already passed on that.

Mr. Rogan: But we want to rebut it at the proper time by producing evidence concerning the setting and the circumstances under which the testimony was given, and for

that limited purpose only we might call the defendant himself, but only for that purpose.

The Court: If you put him on the stand you are going to put his credibility in question.

Mr. Rogan: We didn't feel that way. It was just for rebuttal and for a limited purpose only.

[fol. 31] The Court: I have never done that, Mr. Rogan. I have had many of these cases where the witness was offered for a special purpose, but the difficulty is the minute you put him on the stand to testify for any purpose then the question of his credibility is in issue.

Mr. Rogan: As a matter of practice you could see at that time if this case was being tried before a jury you would exclude the jury and the question raised by the factual situation limited to that particular matter would only be inquired into.

The Court: But his credibility with respect to that state of the matter would still be in issue, and unfortunately you can't divide the zones of credibility. The minute it gets into a question of credibility then the man's credibility all the way through is in issue. I know some Judges do it. I don't do it. Some other Judges don't. I have never done it. I have never limited it. The minute you put him on for any purpose—I only tell you that so you won't be surprised. You can make your offer at that time, and I will rule on it in accordance with what I have just told you.

Now is there any particular thing about this motion you want to call my attention to?

Mr. Ford: No, if you Honor please.

The Court: Well I will overrule it.

Now do you want to make a short opening statement?

Mr. Rogan: There is just this, your Honor. By reason of the re-arraignment of the defendant in this case I assume that all prior preliminary pleadings will be covered in the trial of this case, that is our first motion to dismiss?

The Court: Well I think I wrote you and told you I overruled that.

Mr. Rogan: I know, but we are re-offering it by reason of the re-arraignment of the defendant in the case.

[fol. 32] The Court: Same ruling. Now, do you want to make a preliminary opening statement?

Mr. Rogers: Yes, your Honor.

(Mr. Rogers then made an opening statement to the Court.)

(Mr. Rogan reserved opening statement on behalf of the defendant.)

RUBEN MAURICE JONES, a witness of lawful age, produced on behalf of the State, after being duly sworn in accordance with law, was examined and testified as follows:

Direct examination.

By the Bailiff:

Q. State your name.

A. Ruben Maurice Jones.

Q. Address?

A. 710 Peach Orchard Lane, Baltimore 22.

By Mr. Rogers:

Q. Now Mr. Jones, have you or have you not ever been in the lottery business?

A. Yes.

Q. About when was that that you were actually in the lottery business, sir?

A. From Monday, November 3rd, 1947 until March 20th, 1948.

Q. Will you explain to his Honor how you happened to get into the business, sir?

A. It so happened I got a telephone call advising me to get in touch with Milton Foster and from there on I would get twenty-five percent of the winnings, that he and I were supposed to operate this outfit.

Q. Do you know who called you?

A. The person said Willie Adams, said Mr. Adams.

[fol. 33] Q. Did you take up that offer, did you contact Milton Foster?

A. Yes, I did.

Q. Who was there when you contacted him?

A. Milton and I went through the arrangements. I knew nothing about the procedure prior to that, so Milton and I

sat down and went over it, how it should be done, and so forth.

Q. About what date was that, sir?

A. That was on Sunday night, I think I got my call on the first, which was a Saturday, and the Sunday night I was at Milton Foster's house.

Q. Saturday, November 1st, 1947?

A. '47.

Q. Now you say you met Mr. Foster, and did you go into the actual lottery operation shortly after that?

A. The next day.

Q. The next day?

A. Which was Monday.

Q. Monday the 3rd?

A. That is right.

Q. Where was that, sir?

A. Three hundred block, I can't remember the number of North Calhoun.

Q. Three hundred block North Calhoun?

A. That is right.

Q. What was your actual job there? Did you write or what did you do?

A. No, I have never written a number in my life. It was complete management as far as the books, keeping a record of the fellows who were getting the number business out in the street, as well as showing them how much they owed on their collections or how much profit there might be.

Q. Were you watching this for your own interest?

A. Naturally.

Q. Was the business in operation when you got there or did you set it up yourself?

A. It was in operation.

Q. How many men were involved, do you know?

A. Approximately eight. There may have been nine in- [fol. 34] cluding myself, or may have been eight including myself. If I had to come down and just name them off or count them I think it would be approximately eight.

Q. You say they were there when you got there?

A. No, they weren't there when I got there. They came in. I think I was about the first one there, the first day of my operation, and they gradually came in. There was a

time element. You had to be in by a certain time, so eventually that first day they all showed up.

Q. Now did you invest any money in that setup?

A. No, I didn't.

Q. How much did you get out of it?

A. I didn't get anything out of it other than what I took for living expenses.

Q. About how much was that, sir?

A. I would say it was between—I think I charged myself with between twenty-five hundred and three thousand dollars. Sometime I would take out \$75.00 a week. At times I took out as much as \$150.00. All depends upon what my necessities demanded.

Q. Who did setup or put in the actual capital to carry this operation on?

A. That I could not say.

Q. You do not know?

A. No.

Q. Who did you deal with beside Milton Foster in keeping these accounts?

A. No one. I was the sole authority on that.

Q. You had complete control over all accounts?

A. Definitely.

Q. What would you do with the money that was taken in every day?

A. At first I would take it home. I had a young fellow ride with me. You know there are such instances where you can get yourself held up, but I was dealing with somebody else's money, and I didn't want to be wrapped up in that. [fol. 35] So I had a young man that rode with me constantly, and when that money would get a thousand dollars or more I would take it from my home and place it in a safe.

Q. Where was that safe located?

A. I believe that address is 1519 Pennsylvania Avenue.

Q. Is that your office?

A. No, not mine.

Q. Whose office was it, sir?

A. I will put it like this. The name on the window said Adams Realty Company.

Q. Who gave you permission or told you—let me re-

phrase that question. Why did you put the money in the safe at 1519 Pennsylvania Avenue?

A. Number one was I didn't want it laying around my house. Number two was I had to find some adequate place to keep it, and Milton and I talked it over and——

Mr. Rogan: We object to it.

The Court: Sustained.

Q. Don't tell us what you and Milton had to say.

A. I am trying to answer your question, that is the best way I can answer it.

Q. Well did you ever meet anyone there at 1519 Pennsylvania Avenue during the course of this operation?

A. When you say anyone, what do you mean?

Q. Who would open the safe for you, Mr. Jones?

A. I see what you mean. There was a young lady in that office by the name of Miss Arlington, and I told her I wanted to keep it in there.

Q. Would she open the safe for you?

A. Yes, I didn't know the combination.

Q. Did you ever see Willie Adams there in the office?

A. I saw Mr. Adams the day that I made up my mind to get out of it.

[fol. 36] Q. Let's not proceed to that point yet. What was the highest amount of cash that you ever kept in the safe at 1519 Pennsylvania Avenue?

A. The peak?

Q. Yes, the peak.

A. Twenty-nine thousand dollars.

Q. In cash?

A. Wouldn't get it any other way but cash.

Q. You say that you got out of it. About what date, sir?

A. The 20th of March, 1948.

Q. What made you decide to get out?

A. I didn't see any need of my taking a chance to go to jail, and the fellows wasn't collecting that money. One man was better than \$7,000.00 short instead of \$3,000.00 short. The money was out in the streets, and I knew what was in that safe, I knew what was charged to me, so I made up my mind, I told Foster I am going to quit, and that morning I walked in and quit.

Q. How did you go about quitting, just tell Mr. Foster "I quit"?

A. He really was supposed to have met me because I had everything ran up. I did it like this, if you will let me go back.

Mr. Rogan: We are going to object to what the arrangements were with Foster.

The Court: I don't understand this, this is what you did every day? You are telling about your movements, aren't you?

The Witness: That is right.

The Court: What you did up there in the business, isn't that right?

The Witness: That is right.

The Court: Well I don't see any objection to that.

Mr. Rogan: He started to mention Mr. Foster, said he had some arrangement with Mr. Foster to meet Mr. Foster. [fol. 37] The Court: Read that back there a minute.

(Testimony read by the reporter.)

The Court: What are you talking about you did? You did what?

The Witness: He asked me this question did I just quit.

Mr. Rogan: We object to what Foster asked him.

A. Foster didn't ask me anything.

Q. I think I can rephrase the question. Mr. Jones, we had reached the point where you said you decided to get out of the business. I asked you to whom did you turn over the books of account you said you were keeping?

A. That is what you are asking me now?

Q. That is what I am asking you now.

A. I walked into the office of Adams Realty. Foster wasn't there. I went into the private office after knocking on the door.

Q. Whose private office?

A. Just a minute. Mr. Adams was in that private office.

Q. You say Mr. Adams, Mr. Jones. Who do you mean by Mr. Adams, do you see that man in court today?

A. He is sitting to my immediate right.

Q. Well turn around and point him out please, if you see him.

A. Right there.

Q. Indicating the defendant Willie Adams. He is the man you say was in the private office?

A. He was in the private office.

Q. Did you or did you not have a conversation with him?

A. I wouldn't call it a conversation.

Q. Did you or did you not say anything?

A. Yes, I did.

Q. What did you say to him and what did he say to you?

A. I had six or more books——

[fol. 38] Mr. Rogan: I object unless it was in Adam's presence.

Q. He said it was Mr. Adams.

Mr. Ford: He said it was in Mr. Adams private office, he didn't say he was there.

A. He was sitting in the office, Mr. Adams.

Q. Now your Honor he is a State's witness, this is direct examination.

The Court: Let him testify, go ahead.

A. I was very much sour on the operation. So I said to Mr. Adams, I am through with this, there is not any future in it whatsoever, and I just pitched the books on the table and walked on out.

Q. Did you or did you not do or say anything about the \$29,000.00 in cash, or did you have \$29,000.00 at that time?

A. There was no \$29,000.00 then. Possibly if it had been I would have still been in it.

Q. Did you do anything about the distribution of that money or didn't you?

A. No, I left it there.

Q. Just left that in the account books?

A. I had used about \$3,000.00. It was up to the other fellows to get the rest. I didn't care personally.

Q. Did you know Willie Adams prior to that date?

A. Sure, I knew him.

Q. Had you had any conversations with him relative to

this lottery business prior to the date you turned in the books?

A. No, I never did see him to be frank about it. When I got through I would go home. If I am going to run a thing I just run it.

Q. But you turned in the books of account to Mr. Adams on what date, sir, March 20th, 1948 I believe?

A. I phrased it like this. I pitched those books on that desk and walked out.

[fol. 39] Q. Let's go to about September or October 1949, Mr. Jones.

The Court: Well let me, before you go too far from that. Whose office was this you saw Mr. Adams in?

A. There was an adjoining office, your Honor, in reference to the main office where people paid their rent to Adams Realty Company.

The Court: Was this the office you saw Mr. Adams in of the Adams Realty Company?

A. Yes, it was an adjoining office.

The Court: All right, go ahead.

Q. Mr. Jones, let's proceed then to approximately September or October of 1949. Did you or did you not see Willie Adams just prior to a big strike down at the Bethlehem Steel Company, sir?

A. Yes, sir.

Q. Where was that, Mr. Jones?

A. Ask that question again, please.

Q. I said did you or did you not see Willie Adams in either September or October of 1949, just prior to a strike at Bethlehem Steel?

A. Yes, I did.

Q. Where?

A. On the golf course.

Q. Which golf course?

A. Carroll Park.

Q. That is here in Baltimore City?

A. That is right.

Q. What if any conversation did you have with him at that time, Mr. Jones?

A. Well we discussed it, it was very brief. Four of us were on the second tee, and had driven our balls, and a two-some composed of Mr. Adams and another gentleman whose name I need not call, were finishing their first hole, and out of c-urtesy we allowed them to drive off and walked down the fairway together. The conversation came up, I think I was kidding him about how 500 and 501 hit just before Labor Day.

[fol. 40] Q. You say 500 and 501. What are they?

A. Those are numbers.

Q. Lottery numbers?

A. That is right.

Q. Who were you kidding?

A. I was kidding Mr. Adams about how those numbers hit on a Friday and Saturday. I happened not to be here, but I heard about it.

Q. Is that the same Adams you identified just a few minutes ago?

A. That is Mr. Adams.

Q. What other conversation if any took place at that time?

A. The essence of that conversation was, let me see, something like this, sir. The proposed new operation—

Q. What do you mean new operation, what type of operation?

A. Numbers, lottery.

Q. All right.

A. And how it could be carried on. My criticism was like this. I feel that the numbers you are paying too much, seven to one, that brings it down to a mathematical standpoint I felt—you will pardon me for using I, but I did—I felt it should have been six to one if he was going to operate. In that way you would have more plush or margin on which to sustain those big numbers when they hit like 500 or 501. But it was so short—well, you walk about two hundred twenty-five yards down the fairway, I couldn't drive any farther than that anyway, I do good to drive two hundred yards, so I had to stop and let the rest of them drive on, let this twosome drive on. They finished the second green, and I didn't see them anymore.

Q. Was there or was there not a discussion about you coming into a proposed new lottery setup?

A. Just very minutely because we didn't have too much time.

Q. Well what was it?

A. The conversation went that if it could be setup at six to one would I be interested. Naturally I haven't seen any man that isn't interested in making some money.

[fol. 41] The Court: Are you saying that Adams told you that or somebody else told you that?

A. No, the conversation in general, I am not saying he said that. I said it. I made that statement before.

Q. Who were you having the conversation with?

A. I was talking with Mr. Adams.

Q. Let's proceed then to about June of 1950. Did you or did you not participate in a series of meetings or several meetings in the Adams Realty Company at 1519 Pennsylvania Avenue?

A. Approximately two.

Q. Was there any conversation or wasn't there any at that time relative to a lottery setup?

A. There was. The conversation was an outgrowth of—

Q. Let's not go into what it grew out of, Mr. Jones, just stick strictly to the lottery business if there was any discussion along that line.

A. It was.

Q. What was that discussion?

A. We will get right back to the same observation that I had made in '49 about six to one instead of this seven to one, and that was the only way anybody in Baltimore is going to really make money out of the numbers business, and naturally I was interested if it was six to one, but not any seven to one. We discussed it pro and con, but nothing resulted.

Q. Who is we?

A. Mr. Adams and I.

Q. Do you know anything about the setup? If you came into it what if anything were you to get out of it?

Mr. Rogan: Objected to.
The Court: Sustained.

Q. I will rephrase that, sir. Was there or was there not any discussion about how a lottery setup may be brought into being?

A. I could answer that question two ways.

Mr. Rogan: We object to it.

[fol. 42] Q. Was it or wasn't it?

The Court: Well I think it will have to be more specific. Sustained. Fix the time and date and ask him——

Q. I thought we had the time and date set.

Mr. Rogan: June, 1950.

The Court: Is that the date?

A. That was approximately the date, your Honor.

The Court: June, 1950?

A. That is right.

Q. Where did you say it was located, where the meeting took place?

A. It was in Mr. Adams' office at 1519 Pennsylvania Avenue.

Q. Will you tell us in detail, Mr. Jones, if you can what that conversation was?

A. I started to tell you prior, sir.

Q. Yes, leave out the——

A. The two-fold nature——

The Court: Just what he said and what you said.

A. I did most of the talking, tell you the truth, because I was materially interested in myself, and if it had materialized I would want to know to what extent I would share in any earnings.

Q. Were you told or weren't you?

A. I guess it was agreed——

Mr. Rogan: Objected to.

A. I suggested I would take——

The Court: I will take it subject to being followed up.

Q. What was said by you and what was said by anybody else?

A. I said I wouldn't come in under any circumstances unless I was able to get the same twenty-five percent of the profit.

[fol. 43] Q. Net or gross?

A. Net.

Q. Was there or was there not any discussion as to how much you should put into the lottery setup?

A. No. It was a known fact I didn't have any money.

Q. Who else was supposed to go in this business if anyone else?

A. The conversation came up as to, if there was a possibility of another person putting the money in, putting up this money, and it just never did materialize, tell you the truth.

Q. How much money was supposed to be put up, do you know?

A. Yes, I know.

Q. How much?

A. I said—

Mr. Rogan: Object to it.

The Court: Aren't you telling me what you suggested that you wanted to go in the business with Adams, and aren't you also telling me he never went into it with you?

A. That is right, your Honor.

The Court: All right, strike it all out. When I say strike it all out I refer to this conversation he says occurred in 1950 in which he did most of the talking.

Mr. Maynard: Can we further question him as to what Adams said in answer to any of these things?

The Court: Oh yes, I got the impression from him that Adams didn't say very much, he just listened to him.

Mr. Maynard: May I take over for a moment?

Mr. Ford: I object.

The Court: Wait a minute Mr. Rogers has the witness.

By Mr. Rogers:

Q. This deals then only with June 1950, the conversation in June 1950.

[fol. 44] The Court: If he has anything more that he says Adams committed himself to I am ready to listen to it, but I don't get that from his testimony. What I get from his testimony is that he was making certain proposal to Adams which Adams didn't agree to.

Mr. Rogan: That was his testimony before.

Mr. Rogers: It was not his testimony before, your Honor.

The Court: All right, go ahead.

Q. Mr. Jones, you mentioned that you suggested that if you went into the operation you would want twenty-five percent of the net profit, is that correct?

A. That is right.

Q. To whom did you make that suggestion?

A. On the first occasion?

Q. I am talking in June of 1950.

Mr. Rogan: Let him answer.

A. On the first occasion that was even suggested is when we had the third individual in there.

Q. Who was the third individual?

A. Do I have to involve that?

The Court: Yes.

A. Henry Parks.

Q. To whom did you make that offer or suggestion?

A. That I made as an overall demand. It wasn't a suggestion, that was just what I would do. It had to be that or nothing else.

Q. What if anything did Adams say in answer to that?

A. I remember he mentioned it like this. Well the first time you talked to me I said I wouldn't put up the money so we would have to get somebody else. That is when Parks appeared on the scene, that is at the second meeting. Parks hesitated, didn't say much——

[fol. 45] Mr. Rogan: We object. Was Parks there?

A. That was at the second meeting.

Mr. Rogan: Was Parks there?

A. At the second meeting.

The Court: That is what he is talking about.

A. The first mee-ing it was just Mr. Adams and myself. The second meeting—I told you there were two meetings. The second meeting was when Mr. Parks was there, and he never did guarantee the \$10,000.00.

Q. Who didn't?

A. Parks.

Q. I believe I asked you before about what if anything you were supported to put into the operation, and what was your answer at that time?

Mr. Rogan: We object unless you specify what operation.

Q. The operation in June of 1950.

A. I answered that question, I wasn't putting in anything. I didn't have any money.

Q. Were you or were you not asked?

A. No.

Q. Was there or was there not any discussion as to what part you would play in the operation?

A. I would assume——

Q. Don't tell me what you assume. Was there or wasn't there any discussion?

A. Let me use another word instead of assume.

Q. Use the correct word but don't give us anything that you assume or guess. Tell us just what happened.

A. Sir, you don't know what the word assume meant. I said I was going to assume the sole responsibility. You thought when I used the word assume I was drawing on my imagination, but I didn't mean that.

Q. Tell us what took place?

A. How do you mean?

[fol. 46] Q. What if any conversation was there about what part you were supposed to take in this new operation?

A. I just answered that question.

Q. You were to assume what?

A. The entire responsibility of it.

Q. You were to be responsible to whom?

A. To myself.

Q. Just to yourself?

A. That is right.

Q. Who else was to be in the operation if you know?

Mr. Ford: He has already answered that question.

The Court: I don't think he has. Do you want to say anything else about that?

A. I will say your Honor, the thing did not become a reality. The functioning of it would have to be worked out if it had materialized, but it never did materialize.

The Court: All right, let's go to something else.

Mr. Rogers: Your witness.

Cross-examination.

By Mr. Rogan:

Q. Jones, in June of 1950 were you employed?

A. No, I was not.

Q. Prior to that time did you have a business?

A. I did.

Q. What happened to your business?

Mr. Rogers: I object to this question. It doesn't pertain to anything brought out in direct examination.

Mr. Ford: This is cross-examination, if your Honor please.

Mr. Maynard: We know that.

The Court: It is all right to cross-examine, but unless it is something the State examined him on you will have to [fol. 47] make him your witness. I don't recall we went into any business that he had except the lottery business when he had \$29,000.00 in the safe.

Q. In June of 1950 were you on very good terms with Willie Adams?

A. I would say yes. I owed him \$7,800.00, so you can determine how close I must have been.

The Court: That might indicate you were on bad terms with him.

A. No, I wasn't.

Q. Did you have a falling out with him?

A. In June? You mean in June of 1950?

Q. Yes.

A. No, I didn't have a falling out with him in June of 1950.

Q. When did you have a falling out with him?

A. It was the first part of January 1951.

Mr. Maynard: We object and ask it be stricken out.

The Court: Why?

Mr. Maynard: Because his whole testimony is June 1950, and they are bringing up something seven months later.

The Court: Oh well that is a general question, I will let him answer that.

Q. Did you appear before the Senate Crime Investigating Committee reporting certain facts against William Adams?

Mr. Rogers: Your Honor, I object again. This was not brought out in direct examination, sir.

The Court: What do you want to test on that, Mr. Rogan?

Mr. Rogan: I want to show a motive and the attitude and bias of the witness.

The Court: Well fix a date.

[fol. 48] Q. Did you appear before the Senate Crime Investigating Committee in Washington—

Mr. Rogers: The State objects again.

The Court: At what time?

Q. In January 1951.

Mr. Maynard: We object.

The Court: Overruled.

A. Shall I answer it?

The Court: Yes, answer it.

A. I did.

Q. Did you give that committee information concerning Adams?

A. I gave a sworn—

Mr. Rogers: We object again, sir.

The Court: I will let him answer it.

A. I gave a sworn statement to a gentleman in that office, tall bushy hair, I can't remember his name, in reference to Mr. Adams, yes.

Q. Was it Mr. James Hepbron?

A. That sounds like the name, but I will never forget his face. Bushy haired, looked like he never combed his hair.

The Court: Hepbron has no hair or very little.

A. Well this wasn't Mr. Hepbron then because he had a lot of hair and very unkempt.

Q. Did the man have some markings on the side of his face?

A. I believe he did.

Mr. Rogers: I object to this again, we certainly are getting far off the point, sir.

The Court: I will sustain the objection.

[fol. 49] Q. What prompted you to give information concerning Adams at that time?

Mr. Rogers: We object again, your Honor.

The Court: I don't know why we would get into that. I will sustain the objection on the state of the record as it is at present. You can make him your witness and bring it out, although I don't know then why it would be pertinent to this case.

Mr. Rogan: We always felt we had a right to test the credibility of the witness and particularly from the standpoint of what his motives were. Witnesses may have motives. It may be a salutary motive, it may be a patriotic duty and a civic duty, or it may be for vengeance.

The Court: I don't know if we can delve very much into that. They didn't go into that question at all. I will still sustain the objection and give you an exception. Do you think he has made a different statement at that time from what he is making now?

Mr. Rogan: No, it all goes to the motivation of the witness.

The Court: Do you think he made a different statement then from what he stated this morning? If you do I might feel a little differently about it.

Mr. Rogan: I don't know what statement he made before the Senate Crime Investigating Committee, and my only inquiry is his motive in doing it. What motivated him in making the statement.

The Court: That doesn't help me.

By Mr. Rogan:

Q. Jones, do we understand you were on good terms with Adams up until the time you went over to Washington before the Senate Crime Committee?

A. Just prior to that.

[fol. 50] Q. Just prior to that?

A. Just about a month I would say.

Q. Why did you go over there?

A. To give what testimony, what evidence I had, what I thought I had.

Q. For what reason?

A. I felt that I had been taken advantage of in a bona fide business transaction.

Mr. Maynard: We object to that and ask it be stricken out.

The Court: I will let it stand and give you an exception.

Q. Did you do it for vengeance?

A. Definitely. I made this statement, nobody would do that to me and get away with it.

Q. As a matter-of-fact you wrote an article for the Afro-American under date of January 12th in which you made the same statement, did you not?

A. I wouldn't say I wrote the article, but I worded the article.

Q. Well you worded it?

A. Yes, there is a difference in wording and writing. I will put it like this. I gave permission, your Honor, that it could be printed.

The Court: You gave an interview that incorporated that material in it?

A. That is right.

Q. You stated those reasons why you went over and stated that evidence before the Senate Crime Committee?

A. That is right.

Q. And you did it for vengeance?

A. You want me to answer yes or no?

Q. Yes.

A. Yes.

The Court: He has answered that once I think.

Q. Let's go back to November of——

The Court: Before you leave that question let me ask you this. Did you get a subpoena to come over to Washington to testify there?

[fol. 51] The Witness: No, sir, your Honor. I went on my own.

The Court: You volunteered?

A. Yes, sir.

Q. Did you also try to get a job on that Committee?

Mr. Rogers: We object to this.

The Court: I will sustain that, I see no purpose in it.

Q. Let's go back to November 1947. You say it was on a Sunday night that you received a telephone call?

A. It was on a Saturday night.

Q. Where did you receive that call?

A. At my home.

Q. You have a listed telephone number at your home or a private phone?

A. At the present time?

Q. No, at that time.

A. At that time it was an extension that ran from the drug store.

Q. But there was no telephone listing at that time to your home?

A. No.

Q. Prior to November 3rd you say it was 47——

A. Ask that question again?

Q. Prior to November 3rd, 1947 when you received a telephone call——

A. Yes. Did I have a telephone?

Q. No. How can you tell his Honor that the call came from William Adams, this William Adams?

A. Ask that question again please?

Q. Read the question.

(Question read by the reporter.)

A. All I can say is the individual that talked to me said he was Willie Adams.

Q. Did you recognize his voice?

A. Well it sounded like his voice. You know you don't talk that, what he was talking to me, you don't talk it long over the phone. It is as brief as possible. Sure, I will say I thought it was Willie Adams.

[fol. 52] Q. Had you prior to that date ever discussed with William Adams going into the numbers business?

A. No, I hadn't. I had never given the numbers a thought.

Q. Out of a clear sky by way of a telephone call from a man by the name of Adams, that was your first knowledge that you were to go into the numbers business?

A. Yes, that was the lead to it. After that I talked to Milton Foster.

Q. But never discussed with Adams prior to that time anything concerning numbers?

A. No, I had never given numbers a thought.

Q. Did you know that Adams was or was not in the numbers business at that time?

A. Are you asking me could I say definitely that he was?

Q. To your personal knowledge?

A. No.

Q. You could not?

A. No.

Q. Mr. Jones, you are a college graduate, aren't you?

A. Yes, I am.

Q. Formerly from Oklahoma?

A. That is right.

Q. You came to Baltimore in about 1944 or '45?

A. 1944 to be exact.

Q. You went into a business down at Turner's Station?

Mr. Maynard: We object.

A. Correct.

The Court: Overruled.

Q. You say you turned this money over to a Miss Arington in Adams Realty offices?

A. That is right.

Q. You didn't know the combination of the safe?

A. No, I did not.

Q. Did Adams ever know that that money was in the safe?

A. He did the day I walked in and put those books on the desk.

[fol. 53] Q. He did then?

A. Yes.

Q. Did Adams ever put the money in the safe himself?

A. No, he didn't. If I had wanted to when there was \$29,000.00 I could have taken it all.

Q. It is not a question of taking it——

A. He didn't know anything about it.

Q. You turned it over each day to Miss Arington?

A. No, not each day.

Q. How often did you turn money over to her?

A. Periodically, it all depended on the size of the money I had in my possession.

Q. How would you get it out?

A. How would I get it out?

Q. (no response)

A. Just go up there and get it whenever I needed it.

Q. Would she have to open the safe for you?

A. At times if the safe was open I would just go in and get it. That is during the day, you know, if the combination wasn't turned on I would get it and put a receipt in there for it.

Q. During those months from November until March the 20th when you said you got out of the business did you ever discuss the numbers business with Adams?

A. I didn't see him.

Q. You didn't see him?

A. No, I didn't see him.

Q. From November until March?

A. That is right. I never socialized with him.

Q. You said you went to his office periodically and put money in the safe in the office?

A. When I would go there it would be around ten or ten thirty. I doubt that he was even getting up at that time.

Q. Did you have any arrangements with Adams whereby

you could put that money in the safe through Miss Arington?

A. No, Foster and I decided that. I suggested to Foster [fol. 54] where to put this stuff. As I said I didn't want all that money in my house.

Q. Now you say it was in September 1949 the occurrence at the golf course?

A. September of '49.

Q. Who brought up that conversation?

A. You mean on the golf course?

Q. Yes.

A. As I testified before I don't remember who brought that up. In a joking way I think I brought it up as they were passing through. I got to kidding, talking about some fellow had to go all the way to California when 500 or 501 came out. I happened to be in Oklahoma to see my mother when that happened. I didn't get back till the end of the first week after Labor Day and about a week thereafter I saw him on the golf course, and the start of the conversation was in my kidding about 500 coming out on a Friday, and 501 coming out on a Saturday, and everybody had to run.

Q. Is that all the conversation amounted to?

A. No, the conversation then went into what was the best way to operate those things from an economical standpoint. You don't go into anything that you are not making money, and the suggestion was made six to one. I brought that up.

Q. Is this conversation or were you trying to arrive at some agreement?

A. Personally at the outset if it had been worth while, a worth while operation I guess I would have been interested again. Keep in mind I got out of the first operation because there was no future in it.

Q. You say nothing materialized from the conversation?

A. Nothing at all.

Q. And nothing materialized and no agreement?

A. No, no, wasn't anything to agree on.

Q. Nothing materialized and no agreement as far as June 1950 was concerned?

A. No.

[fol. 55] Q. Who brought up that conversation?

A. I tried to bring out something, but it was overruled. Actually why I was in that office, and if your Honor would allow me, I would like to—

The Court: Just answer the question.

A. This is the only way I can answer it, your Honor, if you will indulge me, please.

The Court: No, you answer it the best way you can.

A. Well ask it again.

Q. Read the question.

(Question read by the reporter.)

A. I am not certain who brought it up. That was my testimony before. I say again I could have brought it up because I was interested in liquidating my debts.

Q. You were broke at the time, weren't you?

A. Yes, sir, I was definitely broke.

Q. Didn't Adams at that time tell you that he was not interested, that he had Carr's Beach, and that is all he could do?

A. He didn't tell me anything like that. He said if I could work that thing out that somebody else would have to put up the money, that was my testimony in the first trial.

Q. This Mr. Parks, Henry Parks, is that his name?

A. That is right.

Q. He is your friend, isn't he?

A. I take him to be my friend.

Q. Didn't you mention Henry Park's name?

A. Could have. I could have said I wonder if Parks has any money. I wouldn't be specific on that as I am on some things.

Q. Jones, where did you say this operation was on Calhoun Street?

A. Three hundred block Calhoun Street.

[fol. 56] Q. Did you ever see Adams there?

A. No, he never did come in there.

Q. You say you didn't discuss the lottery business with Adams at any time between November and March of '48?

A. No, I didn't, after that telephone call I just took over, I guess that is just one of my weaknesses. If I have charge of something I just take over, that is all.

Q. Did you ever give Adams any accounting of any monies?

A. No, I didn't give him any accounting other than I walked in—I might repeat, when I walked in that morning and said I was through with it, and the books spoke for themselves.

Q. Why did you do that, Mr. Jones?

The Court: Suspend for a minute.

(Interruption by the Grand Jury.)

The Court: Proceed.

Q. Now, was this your operation and that of Milton Foster?

A. Yes, Milton and I operated it.

Q. For your own benefit?

A. I would say yes, I operated it for my own benefit. I don't know what he was operating it for.

Q. Where is Milton Foster now?

A. He is deceased.

Q. Referring to the office on Pennsylvania Avenue will you please describe that office in November 1947?

The Court: What year, Mr. Rogan, November of what year?

Q. '47, up to March 20th?

A. 1950?

Q. No, 1948.

A. I mean 1948. There were two desks, an adding machine, two windows with venetian blinds, a safe, telephone.

[fol. 57] Q. How many offices?

A. There was one office I believe, a back office, a private office. I think there were two offices, maybe three now.

Q. Which office did Miss Arington occupy?

A. That was the main office, the outer office, as you would come up the stairway, turned immediately to your right, and then another immediate right turn, and you would be in I guess what you would call the Realty office proper.

Q. Now Mr. Jones, do you know of your own knowledge from November '47 until June 1951 or 1950—

The Court: Well, which it is?

Q. 1950, or May 1950, whether that period of time to your knowledge Adams was in the numbers business?

A. You mean could I specifically place him in the numbers business?

Q. Yes.

A. No, I could not.

Mr. Rogan: That is all.

Redirect Examination.

By Mr. Rogers:

Q. One moment, Mr. Jones. Mr. Jones, in the 1947 operation, that is the 300 block North Calhoun Street, how much if anything did Adams back that business for?

Mr. Rogan: We object your Honor, because there's been no such testimony that he did back it.

The Court: Overruled.

Q. I said if anything.

The Court: I think if there is anything like that he can testify to it. I don't know. There doesn't have to be any—

Mr. Rogan: He has testified that Adams didn't put any money in the business.

[fol. 58] The Court: I will let him answer that. I think he testified, he certainly said just a moment ago he couldn't say Adams was in the numbers business during that time. Read that question again, Mr. Salzman.

(Testimony read by the reporter.)

The Court: I think that question is leading, I will sustain the objection.

Q. Why were you taken into the 1947 operation, Mr. Jones, if you know.

Mr. Rogan: Objected to.

The Court: Read that again.

(Question read by the reporter.)

The Court: Well he has answered that, he said he was taken into it to run it. I can tell you what he said. He

completely managed the business, he says that, that is his statement. I don't think we need go over that. How many men they had, eight men, didn't invest anything, he got from seventy five to one hundred fifty dollars a week which he took out himself, nobody paid him.

Q. Mr. Jones, do you know of your own knowledge who was backing that operation, sir?

Mr. Rogan: Objected to.

The Court: All right, I will let him answer it.

A. No, I don't. I will put it like this.

The Court: Well he says he doesn't know.

A. I don't know that. I banked it, I kept the money.

Q. I asked you "backer"?

Mr. Rogan: Objected to.

The Court: You were pretty far back when it came to putting up money.

[fol. 59] A. I didn't put up any money.

Q. Do you know who put up the money, Mr. Jones?

A. No, I don't. I didn't see any money.

Mr. Rogers: No further questions, your Honor.

The Court: Well I am going to ask you a question or two. Did you ever have a hit that you had to raise money outside of that safe?

The Witness: No.

The Court: So you never had to get any money from anyone?

The Witness: No, sir.

The Court: All right.

Mr. Rogers: No further questions, your Honor.

(Witness excused.)

Mr. Rogan: We would like to make a motion at this time to strike out all of the witness's testimony.

The Court: No, I won't do that.

Mr. Ford: May we be heard on it?

The Court: I can hear you on it, but I think it is waste

of time, I won't strike out all the witness's testimony. There are some things in there he knows.

Mr. Ford: I would like to refer your Honor to the Archer case.

The Court: I don't think this is the time to do anything like that. The State hasn't concluded its case. I will hear you at the end of the State's case. I think that is the time to make any motion like that. We certainly are not going to try this case by going through after each witness testifies—

Mr. Rogan: Just so we have the right to make the motion at the proper time.

[fol. 60] The Court: I will hear you at the end of the State's case.

ALFRED F. GOLDSTEIN, a witness of lawful age, produced on behalf of the State, after being duly sworn in accordance with law, was examined and testified as follows:

Direct Examination.

By The Bailiff:

Q. State your name.

A. My name is Alfred F. Goldstein.

Q. Your address?

A. 151 Wilmington Place, South East, Washington 20,
D. C.

By Mr. Maynard:

Q. What is your business or occupation, Mr. Goldstein?

A. I am a Stenotype Verbatim Reporter.

Q. For what firm, if any?

A. For the firm of Ward and Paul, in Washington, D. C.

Q. On July 2nd, 1951 were you or were you not the reporter for the Special Committee to investigate organized crime in Interstate Commerce, United States Senate, formerly known as the Kefauver Committee, but at that time known as the O'Connor Committee?

A. Yes, I was.

Q. Did you take notes of the testimony of one William Adams?

A. Yes, I remember doing that.

Q. You testified from those notes at the last trial of this case?

A. That is right, sir.

Q. Now do you have those notes with you today?

A. No, I do not.

Q. Where are they?

A. They apparently have gone astray.

[fol. 61] Q. Did you make a diligent search for them?

A. Yes, we did after we received a call from you a few days ago.

Mr. Maynard: If your Honor pleases, we have the transcript of testimony taken at the former trial, and we would like to offer that transcript as being an exact transcription of his testimony.

The Court: Well you better lay the foundation for it. You have gone part of the way. Ask him about the transcript, let him say whether or not he had the transcript made, whether he has compared it.

Mr. Maynard: Well I will have to put on Mr. Salzman, the Court Reporter, to show that. Would you step down a minute please?

Mr. Ford: We object to his testimony.

The Court: We have to find out now whether the transcript he has is an accurate transcription.

(Witness temporarily excused.)

SIDNEY SALZMAN, a witness of lawful age, produced on behalf of the State, after being duly sworn in accordance with law, was examined and testified as follows:

Mr. Maynard: How is he going to take his own notes?

The Court: I guess he can, go ahead.

Direct examination.

By Mr. Maynard:

Q. What official position do you occupy?

A. Official Court Reporter under the Supreme Bench of Baltimore City.

Q. Did you occupy that position on December 19th and 20th, 1951?

A. I did.

[fol. 62] Q. Did you take testimony in the case of State versus William Adams and Walter Rouse of one Alfred F. Goldstein, the man who was just on the stand?

A. I did.

Q. Did you have occasion to transcribe that testimony for use on motion for a new trial before the Supreme Bench of Baltimore City?

A. The testimony was transcribed. I don't recall at this time whether I dictated it on cylinders or had a girl transcribe it directly from my notes.

Q. Is this an accurate transcription from your notes of the testimony of Mr. Goldstein?

Mr. Ford: Objected to. I don't think he is in position to answer that question.

The Court: Well he might be, I don't know whether he is or not.

A. As far as I know it is a correct transcription of the testimony.

The Court: Well that wasn't the question that was asked. You are asked whether it was an accurate transcription of the testimony or not. You can answer that yes or not.

A. I can't answer it yes or no, but I can check from my notes with the transcript and determine that right now.

By Mr. Maynard:

Q. You can if required testify directly from your notes?

A. I can.

The Court: That is what I think he better do.

Mr. Maynard: There was a stipulation at the time this case went up to the Supreme Bench signed by the State and defense that it was an accurate transcript of the evidence.

The Court: You mean the record that you are holding in your hand was stipulated—

[fol. 63] Mr. Maynard: Yes, I have the State's Attorney's copy, but it was signed by attorneys for both the State and the defense. Is there any question as to the accuracy of the transcript, Mr. Rogan?

The Court: Well I think this. The notes of Mr. Salzman might be one step nearer the original. If counsel for the defense insists on it I will have Mr. Salzman testify from his notes, but it seems to me that that is taking a very technical standpoint.

Mr. Rogan: We don't want to be technical about it. We just wanted to proceed in the proper order, and we don't want to put Mr. Salzman to the inconvenience if he will say under those circumstances that that is a proper transcript. We will accept his word for that.

The Court: Will you say that? You supplied it as an accurate copy?

A. I certainly did.

The Court: Have you any reason to believe that it is inaccurate?

A. I have not.

The Court: Do you want any more?

Mr. Rogan: No.

(Witness excused.)

Mr. Maynard: I don't know just how we would offer it, have Mr. Goldstein read it or shall I read it to the Court?

The Court: I think you might as well read it yourself, Mr. Maynard. You offer it of course as testimony that was given in this court?

Mr. Maynard: Yes, sir.

The Court: As an authentic transcript of the record before the Kefauver Committee or the O'Connor Committee [fol. 64] rather is the way it was at that time, and which was supplied you by Mr. Goldstein who made the copy for the O'Connor Committee, isn't that right?

Mr. Maynard: That is correct, but we had Mr. Goldstein on the stand on December 20th and he testified at

that time in Court on the previous trial of this case from his original notes.

The Court: Well now has he seen this copy you have in your hand?

Mr. Maynard: No, sir, and he doesn't have his original notes. They have disappeared.

The Court: Well I will admit it.

Mr. Rogan: Did he transcribe it?

Mr. Maynard: Of course not.

The Court: This, as I understand it, gentlemen, is what Mr. Goldstein read in the previous trial from his notes, and it is offered as a substitute for Mr. Goldstein's original notes which he is now unable to find and read again in this trial.

Mr. Rogan: We understand that.

The Court: Go ahead.

Mr. Ford: We object.

The Court: You object for a matter of form of proof or because of the substance of this matter?

Mr. Ford: Of course we object in line with the reasons that were assigned in our motion to exclude this testimony.

The Court: That is what I have been assuming.

Mr. Ford: We would also like to object generally if your Honor please, and specifically to questions and statements of counsel.

[fol. 65] The Court: Well I understand that, you object to the testimony for substantive reasons.

Mr. Ford: Yes, sir.

The Court: You think it is inadmissible as testimony in this case.

Mr. Ford: That is right.

The Court: I understand that. You don't raise any question about this being an accurate transcription of the notes that were read in the last trial, do you?

Mr. Ford: No, sir, we have just agreed on that.

The Court: That is what I understood.

Mr. Ford: We would like to offer the general objection.

The Court: Mr. Maynard, you go ahead, and I will give you a general exception on the admission of this transcript as testimony in this case.

Mr. Maynard then read from the aforementioned transcript as follows:

"ALFRED F. GOLDSTEIN, a witness of lawful age, produced on behalf of the State, after being duly sworn in accordance with law, was examined and testified as follows:

"Direct examination.

"By Mr. Maynard:

"Q. What is your name and address?

"Mr. Ingram: We object to any testimony as against Rouse.

"The Court: Overruled.

"A. My name is Alfred F. Goldstein. I live at 151 Wilmington Place, South East, Washington, D. C.

[fol. 66] "Q. Your business or occupation?

"A. I am a Stenotype Reporter.

"Q. For what firm?

"A. With Ward and Paul in Washington, D. C.

"Q. On July 2nd, 1951 were you or were you not the reporter for the Special Committee to Investigate Organized Crime in Interstate Commerce, United States Senate, known as the Kefauver Committee?

"A. Yes, on that day I reported an executive session for that Committee.

"Q. Do you recall when one William Adams appeared before that Committee and testified?

"A. I have looked over my notes, and it indicates that that is so, yes.

"The Court: Just a moment. You called it the Kefauver Committee. According to my information at that time it was already the O'Connor Committee, wasn't it?"

Mr. Rogan: We object to the comments of the Court.

The Court: I will strike from the testimony any comments of the Court at that time.

Mr. Maynard continued reading as follows:

"The Witness: That is correct, Your Honor.

"Mr. Maynard: I stand corrected.

"The Witness: Senator O'Connor was chairman at that time.

"Q. Can you tell the Court and jury who if anyone appeared with William Adams as his counsel on that day?

"A. My notes indicate Mr. J. Francis Ford, and Mr. Joseph Rogan.

"Q. Mr. Goldstein, would you turn to your notes which would correspond with page 27 of the printed record where Mr. Rice the interrogator asked 'how does the number come up—' "

(Colloquy followed between Court and counsel.)

[fol. 67] "The Witness: The question by Mr. Rice reads as follows:

"Q. How does the number come up? Where do they get it from? Three seventy-two, what was it yesterday?

"A. I don't know.

"Q. Suppose it was 372, how would they get it?

"A. When I was in it you took it from the races.

"Q. From the total mutuel at the track?

"A. Yes, sir.

"Q. Get it out of the paper?

"A. Yes, sir.

"Q. Have they stopped doing that?

"A. Wouldn't know.

"Q. You say when you were in it, when was that?

"A. I have been out of it now for sometime.

"Q. How long?

"A. More than a year.

"Q. How much more?

"A. About two months more than a year.

"Q. You got out of it around May of 1950?

"A. Yes, sir."

"Mr. Maynard: Now suppose you stop there, and go further to where Mr. Rice is asking the question 'Going back to the time you were in the numbers business before May of 1950.'

"The Witness: Yes, I have that portion.

"Mr. Maynard: Will you go ahead?

"The Witness (reading):

"Q. Going back to the time you were in the numbers business before May of 1950, last year, where was your headquarters, where did you operate from?

"A. I didn't exactly have any headquarters. We just probably operated here today and another place tomorrow.

"Q. You were moving around?

"A. There wasn't much to my operation.

[fol. 68] "Q. You had another man in there with you, didn't you?

"A. No more than one.

"Q. Who was that one?

"A. I say it wouldn't be any more than one.

"Q. Who was the one that was with you if it was only one?

"A. I say it wouldn't be any more than one.

"Q. You mean you were doing it by yourself?

"A. More or less.

"Q. You mean you were writing numbers yourself? You weren't writing numbers? You were the lay-off man, weren't you?

"A. I don't mean that. When you spoke about the big book and the night book I think you were a little mixed. Probably the little book and the big book.

"Q. Straighten me out on that.

"A. You have some fellows that take in the numbers. They take play up to 25¢. That is called the little book which they give the writers. They get less money from the writers for that than they would from what you probably said is the big book. The big book is a book that plays bet odds to the players.

"Q. Six to seven hundred to one probably up to eight hundred?

"A. Probably so.

"Q. What did they pay on this big book when you quit?

"A. Seven to one.

"Q. Is that single action?

"A. It would be seven hundred to one.

"Q. On the three numbers?

"A. That is right.

"Q. How about the writer, what was his percentage?

"A. There wouldn't be a writer directly involved in this. I don't know if the writer got anything on that particular business or not because the way I got mine more or less would be from some of these fellows that would take the little book from the writer. They would get all the play. [fol. 69] "Q. They would turn it into you more or less?

"A. No, they would more or less keep all the little play. We had a line called the quarter. You had to pay 25¢ in order to be in on the big book.

"Q. What would be the smallest one you would take?

"A. Twenty-five cents.

"Q. You wouldn't take anything over 25¢. You wouldn't pay a percentage?

"A. You wouldn't get a dollar for dollar. You have probably — this man would give you eighty or eighty-five cents for the dollar. With the dollar you would get a dollar's worth of play, if you get somebody else that gives him better. If you didn't meet that you wouldn't have the play at all. He had control of the play actually.

"Q. What would your total daily book be, the amount of action you were handling a day when you were in it going full blast?

"A. I guess around close to a thousand dollars a day.

"Q. A thousand dollars a day?

"A. Around that, a little better sometimes.

"Q. Did you have a ticker? Yours are all numbers? You didn't have any horse bets?

"A. No, sir, I never had a horse bet in my life.

"Q. This is all numbers, a thousand dollars a day? How many people would be betting that into you so it would aggregate a thousand dollars?

"A. I wouldn't be able to tell that.

"Q. It would vary?

"A. I don't know. The way I would get it through like if you were a banker and you were keeping the little stuff and you would give me your package of large stuff because the writers write more or less smaller stuff because they get a percentage off that and naturally they get more nickels and pennies and dimes play than they would quarter play or more, so you would be the one that ordinarily would have control of that knowing how much because——

[fol. 70] "Q. How many people would you have like me that would be laying in to you?

"A. I believe probably ten.

"Q. Where would they find you to lay it in to you, where would they call you? You would take it over the telephone?

"A. Sometimes you would probably take some. You might sometimes. They would get you a little involved, come around with it.

"Q. Who kept the records for you when you were running that operation?

"A. I kept them.

"Q. You kept them yourself?

"A. Yes, sir.

"Q. You did all the bookkeeping?

"A. I had probably someone who helped me. I wouldn't say I did it all.

"Who would help you?

"A. I had one other person.

"Q. Who was that other person?

"A. You want me to give their name?

"Q. Yes.

"A. I wouldn't like to do that.

"Q. We direct you to.

"Senator Hunt: The acting chairman directs you to answer the question."

"A. I would refuse to answer that on the grounds it might incriminate me in my tax investigation.

"Q. How does the name of another person going to incriminate you in your tax investigation? This is somebody else we are talking about.

"A. I wouldn't know.

"Q. You wouldn't know?

"A. No, sir.

"Q. Is this other person a man or woman?

"A. I have the same answer. I would refuse to answer that on the same grounds.

"Q. I think Mr. Chairman the witness having opened the door by indicating that there was another person is compelled to answer the question as to the identity of the person.

[fol. 71] "Senator Hunt: There isn't anyway we can compel the witness to answer, but the chair cannot understand how giving the name of another person would incriminate the witness on the grounds or the promise that you stated, your counsel stated in the opening remarks, due to the investigation of your income tax. Does the witness care to state on what grounds you feel this would incriminate you, in what manner?"

"A. On the same ground that it might tend to incriminate me as far as the income tax investigation is concerned."

Mr. Rogan: I want to object to anything I said.

Mr. Maynard: This was testified to before——

The Court: It is not the testimony that was had before, it is the testimony that was before the O'Connor Committee.

Mr. Maynard: This is the testimony I am reading from before——

Mr. Rogan: But it is what I said.

Mr. Maynard: This is what you said over in Washington.

Mr. Rogan: And that is what I object to especially.

The Court: Whatever was said by Adams is what we are interested in, not what Mr. Rogan said or Mr. Ford said or anybody else said because after all they couldn't very well put words in his mouth.

Mr. Maynard: Mr. Rogan must have changed his mind if he doesn't want to hear what he said.

(Mr. Maynard continued reading as follows):

"Senator Hunt:

"Q. The witness still refuses to answer, is that correct?

"A. Yes.

"Q. One more question. You say you quit the business about May of 1950. To whom did you turn over your numbers business?

"A. Not to anyone.

[fol. 72] "Q. You left it collapse?

"A. I wouldn't have anyone working for me. I wouldn't have turned it over to anybody. I would not take action from the fellows who were giving it to me.

"Q. At the time you were taking action did you layoff to anyone? If you got too much on one number that you didn't want to hold, would you call someone to take that? Would you take any amount bet with you?

"A. You always had a limit.

"Q. What was your limit?

"A. Around a dollar.

"Q. That doesn't make sense. You have a thousand dollar book.

"A. That is from one person.

"Q. That would make a thousand people.

"A. Not that way. If you had eight or ten people you were getting play from, if you had a dollar with each person and they were fortunate enough to have the same.

"Q. What was the most you would take on any one number?

"A. It would be a dollar limit to each person that was giving me play.

"Q. A dollar limit on each number?

"A. Sometime it might be a little more.

"Q. You never laid off to anybody?

"A. I played some numbers myself, a few. I played some numbers.

"Q. When you placed them would you place them out of town?

"A. No, sir.

"Q. Are you sure about that?

"A. I am positive about that.

"Q. When you wanted to place a number you would place more than a dollar, wouldn't you? No point in your betting less than a dollar?

"A. If I would have say ten, twelve people giving me, and I would wind up with each one, say eight of them having a dollar or something like that, that would be the number I would play to protect myself.

[fol. 73] "Q. You would layoff \$4.00 and give that to someone else?

"A. Yes.

"Q. Who would you give that to?

"A. There are plenty people to give it to that work for other people.

"Q. Can you remember any of them?

"A. No, sir.

"Q. You can't remember any of those?

"A. No, sir.

"Mr. Maynard: That is the end of the testimony. Witness with you."

"Cross-examination.

"By Mr. Ford:

"Q. Mr. Goldstein, I would like to direct your attention to the first part of Mr. Adams examination, and I think it will be——

"A. Is that where I began with the question 'how does the number come up?' "

"Q. No.

"The Court: I have a printed copy, tell us what you are looking for.

"Mr. Ford: It is the ninth question.

"The Court: Start it, Mr. Ford.

"Mr. Rice:

"Q. Are you appearing here in response to a subpoena?

"A. Oh, you mean at the beginning of the testimony?

"Q. Yes, certainly.

"A. You mean the very beginning. See, I have only my notes in front of me and you have to orient me.

"The Court: What is the paper you have, Mr. Rogan, is that a typewritten transcript?

"Mr. Ford: Yes, sir."

Mr. Ford: I don't think this ought to be admitted.
[fol. 74] The Court: He isn't reading it, he is just trying to place us on it. Go ahead.

(Mr. Maynard continued reading as follows):

"By Mr. Ford:

"Q. Mr. Rice asked this question, did he not? 'Are you appearing here in response to a subpoena?'

"The Court: What is the answer?"

"Q. The answer is, 'Yes, sir.'"

The Court: Who said that, "Yes, sir?"

Mr. Maynard: Mr. Goldstein.

The Court: Well that really isn't material for your record.

Mr. Maynard: I am wrong. Mr. Ford put this question. "Mr. Rice asked this question, did he not? 'Are you appearing here in response to a subpoena?'" And Mr. Goldstein said, "The answer is yes," William Adams answer I take it, isn't that correct.

Mr. Rogan: That is right.

Mr. Maynard: The next question is "Did the subpoena call for certain books and records?", and I objected, and the Court overruled me, and they went ahead, and answer is "Yes, sir." "Now are these the subpoenas—" and Mr. Rogers objected. The Court says, well he can answer—somebody said well he can answer it if he knows.

"The Court: He wouldn't know that. Do you know?"

"The Witness: No, sir.

"The Court: You just do what Mr. Salzman is doing now?"

"The Witness: That is right. I had nothing to do with the subpoenaing of the witness or anything of the sort. I was just taking a record at the hearing."

[fol. 75] Mr. Maynard: Then there is colloquy with counsel and the Court.

The Court: Well do you have any more testimony of Adams?

Mr. Maynard: That is just what I am looking for. I think that is all, sir.

The Court: All right now gentlemen I am going to strike from that reading anything that was not said by Adams.

Mr. Maynard: Of course, that doesn't include the question by various people who put the questions?

The Court: No, you will need those questions, but so far as we are concerned it is Adams answers that are part of our record.

Mr. Ford: We would like to move to strike out that testimony.

The Court: I overrule the motion.

Mr. Ford: At the same time we want to offer at this time the original subpoenas that were attached to the motion.

The Court: Well you can offer those in your case.

Mr. Maynard: Can we excuse Mr. Goldstein, he wishes to return to Washington?

The Court: Will you need him?

Mr. Rogan: No.

The Court: All right. We will excuse you, Mr. Goldstein.

(Witness excused.)

[fol. 76] CAPTAIN ALEXANDER L. EMERSON, a witness of lawful age, produced on behalf of the State, after being duly sworn in accordance with law, was examined and testified as follows:

Direct Examination.

By the Bailiff:

Q. State you - name and assignment.

A. Captain Alexander L. Emerson, Headquarters Division, Baltimore City Police Department.

By Mr. Maynard:

Q. Captain Emerson, how long have you been in the Police Department?

A. A little over thirty years.

Q. You are still connected with the vice squad?

A. I am.

Q. How long have you been connected with the vice squad?

A. I would say almost twelve years.

Q. The vice squad handles what type of cases?

A. Gambling and all kinds of vice.

Q. Does that include lottery?

A. It does, lottery, bookmaking, crap games.

Q. Can you give the Court some idea roughly of how many lottery cases you have handled during the time you have been on the force?

A. Thousands.

Q. We offer him as a qualified expert witness, if your Honor please.

The Court: Well what do you expect to examine him on?

Mr. Maynard: I want to question him as to what lay-off means, and how it operates to explain Adams's testimony that he laid off all above a dollar.

[fol. 77] The Court: Well that is all right, but don't ask him anything except in connection with the testimony that Adams gave.

Q. You heard the testimony read here of William Adams over in Washington?

A. Yes, sir.

Q. Will you explain from your experience what it means to lay-off in lottery, and particularly laying off a dollar and over.

Mr. Ford: We object.

The Court: Overruled.

A. All over 25¢ the lottery pays off seven to one, that is the average pay-off.

Mr. Ford: We move to strike it out.

The Court: Sustain the objection. We don't want a general resume.

Q. We are asking about the lay-off.

The Court: What does the word lay-off mean in lottery play.

A. Lay-off means when they have too much action they call it into another backer.

Q. What is the purpose of that?

A. That is in case there is a hit on a number, it will not hurt that particular backer too much himself, and then it is shared with the other backer, and sometimes——

Mr. Ford: We move to strike it out.

The Court: Overruled.

A. Sometimes the backer tells them we have got all——

Mr. Ford: Object.

The Court: I think you have answered the question. Strike out the last.

[fol. 78] Mr. Maynard: I think that is what I wanted to get before the Court.

The Court: Anything else?

Cross Examination.

By Mr. Ford:

Q. Let me ask you a question. Do you play numbers?

A. No, sir.

Mr. Ford: We move his testimony be stricken out.

The Court: You feel no one who hasn't played can be qualified?

Q. Let me ask you one more question. Can a man play numbers with himself Captain?

Mr. Rogers: We object to that.

A. Play numbers with himself?

The Court: I will sustain that objection.

Q. Can a man bet with himself?

Mr. Rogers: We object. This was not covered.

The Court: I will sustain it.

Mr. Ford: All right, no further questions.

(Witness excused.)

Mr. Maynard: That is the State's case, if your Honor please.

Mr. Ford: We move to strike out the testimony of Maurice Jones, and the testimony of Mr. Goldstein, and also want to move for a directed verdict.

The Court: Well, I will hear you on it.

(Mr. Ford argued, followed by Mr. Rogers, and then Mr. Ford closed.)

(Adjournment then followed for noon hour recess.)

[fol. 79]

After Recess

Baltimore, Maryland,
May 26, 1952.

Pursuant to adjournment for noon hour recess the cause came on for further hearing.

The Clerk: William Adams, Mr. Rogan, Mr. Ford, Mr. Maynard, Mr. Rogers.

The Court: Gentlemen, I told you I would let you know about this motion after lunch, and I have given it the fullest consideration that I could in such a short time, and I have concluded to deny it.

The reasons are these. So far as the lottery, the substantive charge, is concerned, that is the lottery business that Jones testified to conducting I think there is testimony enough if believed by a jury to have it go to the jury. I can't lose sight of the fact that the money that was taken in over a period from November till May of the following year was taken up to the defendant's place of business, put in a safe up there that belonged to him, and that went on from day to day as the money was collected. It seems to me I would be very naive if I concluded that the defendant had nothing to do with that business when the money was going up there all the time and being put in his safe. That is number one.

Mr. Rogan: Jones's testimony, your Honor is that at no time did Adams know that the money was being put in there.

The Court: I know that, but it was Adams's safe.

So much for that.

Now on the question of limitations which gives me greater concern, I think the testimony is light. It is not what I would call heavy weight testimony, but I think there is enough in there to take care of the charge as a continuing offense when we couple with it what Jones [fol. 80] testifies to about taking the proceeds of the lottery up there during those months, along with the testimony of the defendant in the O'Connor Committee that he was in the business until 1950.

That is very briefly the basis for my denial of the motion
Do you want to go ahead?

Mr. Rogan: Yes, we have one witness.

CECELIA McNEAL a witness of lawful age, produced on behalf of the defendant, after being duly sworn in accordance with law, was examined and testified as follows:

Direct examination.

By the Bailiff:

Q. State your name.

A. Cecelia McNeal.

Q. Your address?

A. 3012 Baker Street.

By Mr. Rogan:

Q. Are you married, Mrs. McNeal?

A. I am.

Q. Where are you employed?

A. I am employed at the Federal Social Security Agency, Candler Building.

Q. What kind of work do you do there?

A. Clerical work of various kinds. I mean there are three, four or five jobs included.

Q. Were you formerly Miss Arington?

A. I was.

Q. Were you ever in the employ of the Adams Realty Company or William Adams?

A. I was.

Q. Over what period of time?

A. December 16th, 1940 until August 9th, 1948.

[fol. 81] Q. What was the nature of your duties during that time?

A. I was called secretary-bookkeeper. I collected rents, was the major part of my operation. Collected rents all during the day the whole time I was there. I also kept books for the night club just below the Adams Realty, I mean under the building of Adams Realty. I wrote checks, I made monthly statements for not income taxes but taxes relating to payroll. I made the payroll, issued payroll envelopes and made deposits, not made deposits, but compiled the deposits, and the manager took the money to the bank.

Q. Where were these offices located?

A. These offices were located at 1519 Pennsylvania Avenue.

Q. Directing your attention to November 1947 through to March 20th, 1948, how many offices were there?

A. There was one office at that location from that time up until the time I left, August 9th, 1948. When I say one office I mean an office within the same four walls.

Q. There is no private office except the one general office?

A. No. My desk was directly across from Mr. Adams's desk.

Q. Did you have a safe in that office?

A. Yes.

Q. Did the safe have a combination?

A. Yes.

Q. Who knew the combination?

A. Mr. Adams and I.

Q. What did you keep in the safe?

A. I kept a cash box, a *petit* cash box, my check books, my ledgers, the rental ledgers and also the ledgers for the night club business.

Q. Would you open the safe in the morning?

A. Opened it every morning, got the necessary books out that I needed to work with, and then locked it.

Q. What were your hours?

A. My hours were nine to five.

Q. Did you close the safe at night?

A. Always.

[fol. 82] Q. When you went out to lunch did you close the safe?

A. Sometimes if we were expecting a delivery and someone relieved me for lunch, and I would lock the safe, but leave someone in the office.

Q. Do you know Maurice Jones?

A. Yes I do.

Q. Did Maurice Jones have any arrangement with you whereby you put money in that safe for Maurice Jones in any amount at any time between November 1947 and March 1948?

A. I had no arrangements with no one except Mr. Adams to put money in that safe.

Q. Did Maurice Jones ever give you any money to put in that safe?

A. No, he didn't.

Q. Did you ever see Maurice Jones take out any money from that safe?

A. He never could.

Q. Was there ever as much as \$29,000.00 at any time in that safe?

A. The highest amount that I have ever seen is between one thousand and fifteen hundred dollars, and that would be for the receipts for probably a week-end at the night club business or either a settlement for property, and usually the property settlement was in a check form.

Mr. Rogan: Witness with you.

Cross examination.

By Mr. Maynard:

Q. Where was Adams's private office?

A. As I know he had no private office. He and I occupied the same office.

Q. Didn't he have a private office there at 1519 Pennsylvania?

A. Not during my stay.

Q. Is that upstairs over the Casino?

A. The first door you come to over the Casino.

Q. How many rooms up there?

A. There is one room, the confines of his office.

[foi. 83] Q. There was a safe there?

A. Yes.

Q. By the way, you didn't testify at the last trial at all, did you?

A. No, I didn't.

Q. Weren't summoned or anything last trial?

A. No.

Q. You say you and Adams alone knew the combination?

A. That is right.

Q. What delivery would you expect during the middle of the day?

A. Whiskey for the downstairs or either supplies to carry on the business of the night club.

Q. You wouldn't put that in the safe, would you?

A. No, but there were checks there, and also some bills were paid with cash, small bills.

Q. Do you know that man Foster?

A. I have seen him.

Q. You have seen him there at 1519, haven't you?

A. Yes, I have.

Q. How often?

A. Very very seldom.

Q. He was killed some years ago in an automobile accident, wasn't he?

A. So I understand.

Q. You have seen Maurice Jones there at 1519?

A. Yes, I have.

Q. How often have you seen him there?

A. I have seen him more often because he was the proprietor or manager of Village Stores Incorporated, and his books were kept up there.

Q. Maurice Jones books were kept there?

A. Yes, sir.

Q. You have seen Henry Parks there, haven't you?

A. Yes, I have.

Q. How often did you see Henry Parks there.

A. I used to see him almost every day because he was the associate broker in the Adams Realty Company.

Q. When did Parks become the associate broker?

A. I really don't know the date.

[fol. 84] Q. I don't mean the day of the week or the day of the month, but about when did he become——

A. I don't know even the year. I could not truthfully say I know when he became——

Q. You say you and Adams were the only ones employed there at the Adams Realty?

A. I was the only one employed there.

Q. How about Bates?

A. Whom?

Q. Roy Bates?

A. I know no Roy Bates.

Q. Well he was the agent for the Adams Realty Company wasn't he?

A. Not that I know of.

Q. Not while you were there?

A. No, sir. He had one employee, and I made the pay-rolls, sent in the forms each quarter.

Mr. Maynard: All right.

Redirect examination.

Mr. Rogan:

Q. Just one question. You referred to the Village Store and the fact there was a bookkeeper there that kept the books of the Village Store that was operated by Maurice Jones?

A. Yes.

Mr. Maynard: We object.

The Court: Why do you object to it?

Mr. Maynard: I think we are going far afield now.

The Court: Somebody that was employed in this place?

Mr. Rogan: He brought it out.

Mr. Maynard: I didn't bring it out.

The Court: Read that to me.

(Testimony read by the reporter)

[fol. 85] The Court: Ask a question.

Q. Was that prior to 1947 the Village Store business?

A. It was prior to '47, possibly carried over into '47, but I think it was prior to '47.

Mr. Rogan: That is all, your Honor.

Recross-examination.

By Mr. Maynard:

Q. Did you help William Adams in anything else besides the Real Estate?

A. I had a full time job with those books up in that office.

Q. Did you keep all of his books?

A. I kept all of the Real Estate books.

Q. Did you keep any books covering any other activity?

A. I know of no other books he had that covers any other activities.

Mr. Maynard: All right.

By Mr. Rogan:

Q. This Bates you say he was an auditor?

Mr. Rogers: I object. She said she had never heard of him.

A. I know no Bates.

Q. Bullock was the bookkeeper.

The Court: I understood her to say she didn't know him.

A. I don't, I know no one by the name of Bates.

Q. This man that kept the books for the Village Store, Maurice Jones's business, was that located in your office or in an office down the hall?

Mr. Maynard: We object. That was prior to '47.
[fol. 86] The Court: I don't know why we would be interested in that if it was prior to '47. He couldn't know very much about your client and what he is charged with today.

Mr. Rogan: We didn't want to make it appear that this auditor was employed in Adams's office.

The Court: Not while anything we are interested in was possibly going on.

Mr. Rogan: That is all.

(Witness excused.)

Mr. Rogan: That is our case, your Honor.

Mr. Ford: We would like to renew our motion.

The Court: Is that all?

Mr. Ford: That is our case.

The Court: I will overrule it, and I will hear you on it, on the main question.

Mr. Rogers: The State will make a short opening argument.

(Argument then followed.)

The Court: I have listened very carefully to the testimony in this case, and I think if I believe the testimony of Jones there is enough in it to find a basis that the defendant was in the lottery business at the time Jones said he was there.

I have mentioned before one or two things, and one of them was the use of the safe for the keeping of the proceeds of the lottery business. There isn't doubt in my mind from what Jones says, as well as from what the bookkeeper said, that Jones was around that place, and around there quite a good deal. She put it that he was in some connection with a store business, but he says he wasn't there with the Village Store business. Jones said he was there in this [fol. 87] lottery business, and that he ran it from November up until the following March or May I think it was he said.

Mr. Maynard: March 20th.

The Court: March 20th of '48. I believe he was there in the lottery business. I believe he was running it for Adams. I don't know any reason why he would have access to that safe at all if it wasn't to put money in or take money out. That is what safes are for, that is what they are kept for.

When we get around to the defendant, and the greatest trouble I have frankly with the case is on the question of limitations, when I get around to the testimony of the defendant in the statements that he made before the O'Connor Committee I think he brings himself squarely within the limitations when he puts himself up to 1950 as the time he was in the lottery business. We don't hear of any other lottery business that he was in except this business which Jones says he was in, and which he left full-fledged and running as a lottery business. When Jones left it, when he walked in there and threw his papers down in front of Adams, the business wasn't wound up or anything of the kind. It was then a full-fledged lottery business employing about eight people. Jones quit, he didn't wind it up or anything of the kind, and I think with Adams saying that he continued in that business until 1950 there is every indication that it was the business that Jones was running in 1948 and no other business.

I find there is a kind of corroboration in this talk about the new operation in 1950.

I find Adams guilty on the 1st count of the indictment.

You want me to withhold sentence?

Mr. Rogan: Yes, your Honor, we want to prepare a motion.

[fol. 88] IN THE CRIMINAL COURT OF BALTIMORE

STIPULATION

It is stipulated by and between counsel on behalf of the State and counsel for the defendant that the foregoing transcript of testimony is and shall be considered the agreed statement of facts in the above entitled case.

(Signed) William H. Maynard, Deputy State's Attorney. (Signed) Joseph H. A. Rogan, J. Francis Ford, Attorney for the Defendant.

IN THE CRIMINAL COURT OF BALTIMORE

Baltimore, Maryland,
December 2, 1952.

Before Honorable E. Paul Mason, Judge

SENTENCE

MASON, J. (Orally):

I don't take the exact view of this case that you do, Mr. Rogan, except in one particular, and I do believe that repentance is a very valuable thing when it is coupled with substantial evidence of repentance. I can't say any more. There is nothing in this case to show that the defendant has made any substantial evidences of repentance, and I have to take the record as it is.

Now that record I have read not once but many times, and I have been unable to change my mind at any time after the reading of the record several times. I have carefully reviewed it. I think your client is one of the largest operators that ever operated in Baltimore City. I believe that. The record certainly shows substantial operations, and the [fol. 89] sentence that I impose on him will be mainly with thought that it is preventive, and not otherwise.

Of course, I believe it is a serious offense to write numbers, but a more serious offense is to conspire with others to maintain people in the writing of numbers, and to maintain an organization or operation whose sole purpose is to defeat the law in the writing of numbers on successive days

over a long period of time, to wilfully defeat and flout the law let us say many times each day. I regard that as much more serious than the we will say one time offender who in the heat of conflict or something of the kind breaks the law. That is an occasional thing. This wasn't occasional, it was continuous over a long period of time.

Your client has been found guilty of that offense of conspiracy and it extended over some period of time.

With that in mind, with the thought that the offense has been neither casual or trivial but substantial, defiant and continuous, I think it requires a severe and adequate penalty as a warning or rebuke to others who may be engaged in this same operation. I can't think otherwise about it.

With that in mind and in view the sentence of the Court is to pay a fine of two thousand dollars, and to serve a period of seven years in the Maryland Penitentiary. I want no demonstration from anybody at this time. That is all I have to say.

IN THE CRIMINAL COURT OF BALTIMORE

MOTION FOR A NEW TRIAL—Filed May 29, 1952

Now comes William Adams, the Defendant, by Joseph H. A. Rogan and J. Francis Ford, his Attorneys, and moves that a new trial be ordered in the above entitled case for the following reasons:

(1) Because the verdict is against the evidence.
[fol. 90] (2) Because the verdict is against the weight of the evidence.

(3) Because of newly discovered evidence.

(4) Because the Trial Court committed the following errors of law in connection with the overruling of the motion filed by the Defendant, Adams, in connection with the admission of certain evidence at the trial of this case:

(a) The Trial Court committed errors of law in refusing to grant the Defendant's Motion to Dismiss because of the insufficiency of the indictment and for the reason that conspiracy to violate the lottery laws is a crime unknown to the Maryland law.

(b) Because the Trial Court admitted evidence in this case showing certain overt acts which were relied upon by the State to prove the conspiracy charge which were barred by the Statute of Limitations, with particular reference to the Testimony of R. Maurice Jones.

(c) It was also error of law to admit in evidence portions of the transcript of the testimony of William Adams taken before the Senate Sub-Committee investigating crime in interstate commerce by authority of Senate Resolution 202 taken under date of July 2, 1951, for the reason that there was no showing that the testimony of William Adams before the Sub-Committee above referred to was voluntary in character, and further for the reason that the State could not use this evidence in the trial of this criminal case because of the immunity given by Section 3486 of Title 18 of the United States Code Annotated, and for the further reason that the admission of this evidence was in derogation of the rights of Adams under the Fifth Amendment of the Constitution of the United States and Article 22 of the Declaration of Rights of the State of Maryland, and for the further reason that in admitting such evidence, the trial Court was compelling the Defendant, William Adams, in this case to give evidence against himself.

[fol. 91] (4) And for other reasons to be assigned upon the hearing of this motion.

(Signed) Joseph H. A. Rogan, J. Francis Ford, Attorneys for Defendant, William Adams.

IN THE SUPREME BENCH OF BALTIMORE CITY

PETITION—Filed July 11, 1952

To the Honorable, the Judges of the Supreme Bench of Baltimore City:

The Petition of William Adams by Joseph H. A. Rogan and J. Francis Ford, his attorneys, respectfully represents:

(1) That heretofore, to wit: on the 26th day of May, 1952, your Petitioner was convicted of conspiracy to violate the lottery laws before the Honorable E. Paul Mason, presiding Judge in the Criminal Court of Baltimore City.

(2) That at the trial of this case, there appeared as a witness for the State, R. Maurice Jones, who testified that on November 1, 1947, he received a telephone call from William Adams advising him to get in touch with one Milton Foster about entering the lottery business; that the said R. Maurice Jones further testified that he entered the business with Milton Foster and continued in the same until March 23, 1948, when he quit, at which time he went to the real estate offices of the said William Adams at 1519 Pennsylvania Avenue, where he threw some "Books" on Adams' desk; that the said R. Maurice Jones further testified that during the time he was in the said Business with the said Milton Foster, that the moneys received from the said lottery business were placed in a safe at the office of the Adams Realty Company at 1519 Pennsylvania Avenue, Baltimore.

(3) That your Petitioner is reliably informed and therefore avers that at about 11:30 a. m. on the morning of May [fol. 92] 27, 1952, one of his attorneys, J. Francis Ford received a telephone call from R. Maurice Jones; that during the conversation which resulted between the said R. Maurice Jones and J. Francis Ford, the said R. Maurice Jones advised the said J. Francis Ford that he desired to come to the office of the said J. Francis Ford to make a deposition and affidavit to the effect that he had lied about the aforementioned telephone call; that he lied about taking the books to the office of the said Adams Realty Company, all of which is set forth in an affidavit by the said J. Francis Ford, attached hereto, and marked "Petitioner's Exhibit No. 1", and prayed to be taken as a part hereof.

(4) That your Petitioner is reliably informed and therefore avers that at approximately 1:20 p. m. on the same day, the said R. Maurice Jones called Joseph H. A. Rogan, one of the attorneys for your Petitioner and engaged him in a telephone conversation at the said attorney's office; that during the course of the said telephone conversation, the said R. Maurice Jones stated that he wanted to come to the said Joseph H. A. Rogan's office and make an affidavit as to some false testimony he had given in the case of Adams on the day before, the said Maurice Jones stating to the said Joseph H. A. Rogan that he had not received the telephone call from Mr. Adams, as he had testified to; that Adams

had not put him, Jones, in the lottery business, and further that his testimony was false concerning the taking of any books to the office of Adams. The said Maurice Jones further stated that he had put money in the safe of Adams, but that Adams never knew anything about it. The substance of the foregoing telephone conversation being set forth in an affidavit by Joseph H. A. Rogan, one of the attorneys for your Petitioner, attached hereto, and marked "Petitioner's Exhibit No. 2", and prayed to be taken as part hereof.

(5) That the original call at about 11:30 a. m. to the offices of the said attorneys Joseph H. A. Rogan and J. Francis Ford has been received by Miss Margaret L. Cauble, Secretary in the offices of Joseph H. A. Rogan and J. Francis [fol. 93] Ford, and the incidents of that conversation are set forth in an affidavit by the said Margaret L. Cauble, attached hereto and marked "Petitioner's Exhibit No. 3", and prayed to be taken as a part hereof.

(6) That your Petitioner alleges that he was convicted upon false testimony as shown by the attached affidavits; that your Petitioner has filed a Motion for a New Trial before the Supreme Bench of Baltimore City.

Wherefore, your Petitioner prays that an Order be passed allowing your Petitioner to file this Petition and Exhibits as part of the record in his case.

(Signed) Joseph H. A. Rogan, J. Francis Ford,
Attorneys for Petitioner, William Adams.

(Signed) William Adams, Petitioner.

(Affidavit attached.)

IN THE SUPREME BENCH OF BALTIMORE CITY

ORDER—July 11, 1952

Upon the foregoing Petition and Affidavit, it is this 11th day of July, 1952, by the Supreme Bench of Baltimore City, Ordered, that this Petition and Exhibits be included in the record of the case entitled State of Maryland v. William Adams, now pending in the Criminal Court of Baltimore City as part of the record filed in connection with the

Motion for a New Trial, unless cause to the contrary be shown on or before the 1st day of September, 1952, provided a copy of the Petition and Exhibits be served upon Anselm Sodaro, State's Attorney for Baltimore City on or before the 15th day of July, 1952.

(Signed) Joseph L. Carter, Judge, Supreme Bench of Baltimore City.

[fol. 94] PETITIONER'S EXHIBIT NO. 1 TO PETITION

STATE OF MARYLAND,
City of Baltimore:

This is to certify that on this 28th day of May, 1952, before me, a Notary Public in and for the City of Baltimore, State of Maryland, personally appeared J. Francis Ford, a member of the Baltimore Bar, who made oath in due form of law to the following facts:

That at approximately 11:30 a. m., on the morning of May 27, 1952, he received a telephone call at his office 1607 Munsey Building, Baltimore, Maryland; that the caller identified himself as Maurice Jones, a witness whom Mr. Ford had heard testify the previous day in the Criminal Court of Baltimore City in the trial of the case of the State of Maryland v. William Adams; that Maurice Jones asked the said J. Francis Ford whether he would be in his office for a little while, and J. Francis Ford advised Maurice Jones that he would; that -he said Maurice Jones then stated to the said J. Francis Ford that he desired to come to his office and make a "deposition and affidavit" to the effect that he had lied in his testimony in the aforementioned case which was tried before Judge E. Paul Mason, one of the Judges of the Supreme Bench of Baltimore City, in that his testimony was false in the following respects.

That Jones had lied when he testified that he had received a telephone call from William Adams suggesting that Jones contact one Milton Foster about going into the lottery business, and that he had further lied when he testified he had placed certain books on Adams' desk in Adams' office at 1519 Pennsylvania on the 20th of March, 1948; that the said J. Francis Ford then advised the said Maurice Jones

that he felt that Mr. Rogan should personally handle this matter; that the said J. Francis Ford further advised the said Maurice Jones that Mr. Rogan was not in his office at that time, but that the said Joseph H. A. Rogan would be in his office a little later, and Ford requested the said Maurice Jones to advise Ford where he could be reached [fol. 95] when Mr. Rogan arrived at his office. Maurice Jones then advised Ford that he was going to be in and out and could not be reached by telephone; that Ford then advised Jones that Mr. Rogan would probably be in his office at 1:30, and again asked Jones where Mr. Rogan could contact him at that time. Jones then advised Ford that he would call Mr. Rogan at 1:30; that shortly after that, -he said J. Francis Ford was able to contact the said Joseph H. A. Rogan and advise him of the telephone call he had received from Maurice Jones and the statements Jones made; that the said J. Francis Ford then accompanied the said Joseph H. A. Rogan to the Criminal Court of Baltimore City, where Judge E. Paul Mason was presiding; that the said Joseph H. A. Rogan and J. Francis Ford approached the bench with the permission of the Court and called to the bench Mr. William H. Maynard, Deputy State's Attorney of Baltimore City and Mr. William C. Rogers, Jr., Assistant State's Attorney, both of whom had participated in the trial of the Adams case the day previous before the Honorable E. Paul Mason; that the said Joseph H. A. Rogan then asked the said J. Francis Ford to relate to the Court the substance of the telephone call which he had received at approximately 11:30 a. m.; that the said Joseph H. A. Rogan then advised Judge Mason that he did not propose to take any deposition and affidavit from this witness and suggested to the Court that he and Ford were reporting this matter to the Court as officers of the Court for whatever appropriate action was deemed necessary on the part of the Court and the State's Attorney. Judge Mason then suggested to the said Joseph H. A. Rogan and J. Francis Ford that if Jones called back at 1:30, the said Joseph H. A. Rogan was to instruct Jones to come into Court and to state from the witness stand any retraction he had to make as far as his testimony of the previous day was concerned.

That at approximately 1:20 p. m., May 27, 1952, the said J. Francis Ford answered a telephone call which came to his office on telephone line Le. 7244, and the caller again [fol. 96] identified himself as Maurice Jones; that Ford definitely and positively identified the caller as being Maurice Jones, the witness who had testified on behalf of the State in the trial of the case of the State of Maryland v. William Adams in the Criminal Court of Baltimore City on May 26, 1952, before Judge E. Paul Mason; that Joseph H. A. Rogan was then in the office of J. Francis Ford; that Ford advised Maurice Jones that Mr. Rogan was present, and Ford immediately turned the telephone over to Mr. Rogan; that Mr. Rogan talked with Jones, and Ford heard Mr. Rogan advise Jones that he would not take his affidavit, that he would not see him, if he came over to his office, and stated that if Jones had given false testimony, he should in good conscience immediately report the matter to Judge Mason, and further suggested to Jones that he present himself before Judge E. Paul Mason that afternoon (May 27, 1952).

(Signed). Margaret L. Cauble, Notary Public.

PETITIONER'S EXHIBIT No. 2 TO PETITION

STATE OF MARYLAND,
City of Baltimore:

This is to certify that on this 28th day of May, 1952, before me, a Notary Public in and for the City of Baltimore, State of Maryland, personally appeared Joseph H. A. Rogan, member of the Baltimore Bar, and made oath in due form of law to the following facts:

That on Tuesday, May 27, 1952, at approximately noon time, the said Joseph H. A. Rogan was advised by his associate, J. Francis Ford that the said J. Francis Ford had received a telephone call at approximately 11:30 a. m. from R. Maurice Jones, a witness who had testified in the case of the State of Maryland v. William Adams in the Criminal Court of Baltimore on Monday, May 26, 1952; that the said J. Francis Ford related to the said Joseph H. A. Rogan the substance of the telephone call, particulars of which are set

forth in an affidavit made by the said J. Francis Ford and [fol. 97] filed herewith. That upon being advised of the substance of the said telephone call, the said Joseph H. A. Rogan accompanied by J. Francis Ford, went to the Criminal Court of Baltimore City where Judge E. Paul Mason was presiding, and where the said Joseph H. A. Rogan instructed the said J. Francis Ford to relate to the Court the substance of the telephone conversation he had had with R. Maurice Jones previously; that following this conversation with the Court, the said Joseph H. A. Rogan advised the Court that he would not take the deposition and affidavit of this State's Witness and stated that he and Mr. Ford were reporting this matter to the Court as officers of the Court. Judge Mason suggested to the said Joseph H. A. Rogan that if Jones called back at 1:30 p. m. Mr. Rogan should advise Jones to come into Court, take the witness stand and make any retraction he had to make in open Court; that at this meeting with Judge Mason, there were present in addition to the said J. Francis Ford, William H. Maynard, Deputy State's Attorney of Baltimore City and William C. Rogers, Jr., one of the assistant State's Attorneys. Following this meeting with Judge Mason, the said Joseph H. A. Rogan and J. Francis Ford returned to their offices.

That upon his return to his office, Joseph H. A. Rogan, while conferring with his associate, J. Francis Ford, in Mr. Ford's office, the telephone rang, and Mr. Ford answered it. Mr. Ford said, "Hello, Mr. Jones", and Mr. Ford further stated Mr. Rogan is here, and handed the receiver of the phone to Mr. Rogan. The Party calling was R. Maurice Jones, whose voice was recognized by Mr. Rogan, and Mr. Jones stated that he wanted to come over to his office and make an affidavit as to some false testimony he had given in the case of Adams. Joseph H. A. Rogan asked Mr. Jones the nature of this false testimony, and he said that he had not received the telephone call from Mr. Adams, and that Adams had not put him Jones, in the lottery business, and further said that his testimony was false concerning the taking of books to the office of Adams. [fol. 98] He, Jones, said he did put money in the safe, but Adams never knew anything about it. At that point, Mr. Rogan advised Jones that he would not take from him an

affidavit concerning the falsity of his testimony, and that if he desired to do so, he should see Judge Mason and report the matter direct to the Court.

Mr. Rogan further advised that if Jones would designate a time to appear before Judge Mason and would advise him, that he, Mr. Rogan, would like to be present. Jones then stated that he would go over the following morning because he wanted time to "meditate" the matter. He further stated that if Mr. Rogan would not prepare the affidavit concerning his testimony, he would consult some other person about its preparation. That on Wednesday, May 28, the said Joseph H. A. Rogan accompanied by Anselm Sodaro, State's Attorney for Baltimore City, met with Judge E. Paul Mason in his chambers, where the said Joseph H. A. Rogan advised the Court of the telephone conversation he had with Jones at 1:20 p.m. on the previous afternoon; that in accordance with the instructions of the Court, the said Joseph H. A. Rogan had suggested to Jones that he go before the Court and make whatever statement he desired.

(Signed) Margaret L. Cauble, Notary Public

PETITIONER'S EXHIBIT No. 3 TO PETITION

STATE OF MARYLAND,
City of Baltimore:

This is to Certify that on this 11th day of July, 1952, before me a Notary Public in and for the City of Baltimore, State of Maryland, personally appeared Margaret L. Cauble, and made oath in due form of law to the following facts:

That approximately at 11:30 a.m., on Tuesday, May 27, 1952, I Margaret L. Cauble, being the Secretary in the law offices of Joseph H. A. Rogan and J. Francis Ford received [fol. 99] a telephone call; that the individual calling asked for Mr. Rogan, and I advised him that the said Mr. Rogan was not in his office at that moment, and I asked the caller if Mr. Rogan could call him; the caller then identified himself to me as Maurice Jones; when he advised who he was, I advised him that Mr. J. Francis Ford was in the office, and

asked Mr. Jones if he desired to talk with Mr. Ford, Mr. Jones said he would talk with Mr. Ford, and I accordingly rang the buzzer in Mr. Ford's office. Mr. Ford then talked with Mr. Jones. Mr. Ford's office is immediately adjacent to mine, the door in his office was open, and I heard Mr. Ford tell Maurice Jones that he had better wait until Mr. Rogan came in.

Witness my hand and Notarial Seal.

(Signed) Frances Bach, Notary Public.

IN THE SUPREME BENCH OF BALTIMORE CITY

MOTION NE RECIPIATUR

To the Honorable, the Judges of the Supreme Bench of Baltimore City:

The State of Maryland, by Anselm Sodaro, State's Attorney for the City of Baltimore, in answer to the petition of William Adams filed July 11th, 1952, asking that certain affidavits attached to said petition be filed with the Supreme Bench of Baltimore City and be made a part of the record for a motion for new trial, be not received for the reason that said affidavits are based upon suspicion and conjecture, whereas in truth and in fact the said R. Maurice Jones did not at any time telephone or otherwise communicate with Joseph H. A. Rogan, J. Francis Ford nor with Miss Margaret L. Cauble, secretary in the offices of Joseph H. A. Rogan and J. Francis Ford, and that the testimony of R. Maurice Jones at the trial of William Adams on May 26th, 1952, is true and correct, all of which appears in the affidavit of R. Maurice Jones attached hereto and made a part hereof.

[fol. 100] Having fully answered the petition of the said William Adams, the State moves that the petition and the affidavits attached thereto be not received.

(Signed) Anselm Sodaro, State's Attorney for the City of Baltimore.

AFFIDAVIT

STATE OF MARYLAND,
City of Baltimore, to wit:

I hereby certify that on this 17th day of July, 1952, personally appeared before me, a Notary Public of the State of Maryland, in and for the City of Baltimore aforesaid, R. Maurice Jones, who made oath in due form of law as follows:

That he was a witness in the trial of William Adams on May 26th, 1952; that he did not on May 27th, 1952, nor prior thereto nor subsequent thereto nor at any other time telephone Joseph H. A. Rogan nor J. Francis Ford, nor Miss Margaret L. Cauble, secretary in the offices of Joseph H. A. Rogan and J. Francis Ford; the said R. Maurice Jones further deposes that he did not in any manner whatsoever at any time communicate with the said Joseph H. A. Rogan or J. Francis Ford, or Miss Margaret L. Cauble, secretary in the offices of Joseph H. A. Rogan and J. Francis Ford; that the testimony which he gave in the William Adams case as aforesaid is a matter of record and is true and correct.

As witness the signature of the said R. Maurice Jones.

(Signed) R. Maurice Jones

Subscribed and sworn to this 17th day of July, 1952.

(Signed) Elizabeth Brooks Cipra, Notary Public.

[fol. 106] THE COURT OF APPEALS OF MARYLAND, OCTOBER
TERM, 1952

NO. 147

WILLIAM ADAMS

v.

STATE OF MARYLAND

Judge DELAPLAINE delivered the Opinion of the Court:

This is the appeal of William Adams from his conviction by the Criminal Court of Baltimore on an indictment charging that he and Walter Rouse, of Baltimore, on August 1, 1947, and thence continually until August 15, 1951, unlawfully conspired together, and with certain other persons to the jurors unknown, to violate the lottery laws of the State of Maryland. The Court, acting upon the motion of Rouse, ordered a severance. Adams was then tried by the Court sitting without a jury. He was found guilty and was sentenced to the Maryland Penitentiary for a term of seven years and to pay a fine of \$2,000.

It appears that the State failed to produce any evidence that appellant had conspired with anyone by the name of Rouse, but showed that appellant had conspired with Reuben Maurice Jones and other persons. Jones, the chief witness for the State, was one of the participants in a numbers business conducted on Calhoun Street from November, 1947, until March, 1948. He testified that on November 1, 1947, appellant phoned him that if he would call to see Milton Foster, he could get a job in that business that would pay him a commission of 25 per cent of the profits. Jones called at Foster's home on November 2 and started to work on November 3. He kept the accounts of eight men who [fol. 107] were "getting the numbers business out in the street," and after each day's work he took the money to his home. Whenever he accumulated about a thousand dollars, he would take it to the Adams Realty Company on Pennsylvania Avenue, where appellant had his private office. He testified that at one time the pile of cash in the safe at the Adams Realty Company amounted to \$29,000. However,

on March 20, 1948, according to his testimony, he quitted the business. He recalled that he walked into appellant's private office, threw the books on the table and said to him:

"I am through with this job. There is not any future in it whatsoever."

Jones further testified that one day in October, 1949, while playing golf in Carroll Park, he was talking with appellant about the gambling business. He testified: "I was kidding him about numbers 500 and 501 hit just before Labor Day." He further testified that appellant told him that he could get a job in a new numbers business, whereupon he replied: "I feel that numbers you are paying too much, 7 to 1. * * * I felt it should have been 6 to 1, if he was going to operate. In that way you would have more plush on margin on which to sustain those big numbers when you hit like 500 or 501."

Jones finally testified that in June, 1950, he attended two meetings held in the office of the Adams Realty Company to consider starting a new numbers business. At those meetings he declared that he would not work in any numbers business unless it paid him a commission of 25 per cent of the profits and the numbers paid only 6 to 1, as "that was the only way anybody in Baltimore is going to really make money out of the numbers business."

The clear inference can be drawn from these conversations between appellant and Jones that appellant was still in the numbers business as late as June, 1950.

One of the early rules of the common law was that the name of a person necessary for complete description of a crime should be stated in the indictment, if the name of such person is known. The obvious reason for this rule is that [fol. 108] every person indicted for a crime is entitled to be informed of the nature of the charge as precisely as possible to enable him to properly prepare his defense. *State v. Rappise*, N. J., 65 A. 2d 266. However, in order to prevent a failure of justice, it is now generally accepted that, if the name of a person necessary for complete description of a crime is unknown to the grand jurors, they are justified in alleging that the name of such person is unknown to them.

It is preferable that an indictment for conspiracy should state the names of the co-conspirators. *Laws 1945*, ch. 87;

Hurwitz v. State, Md., 92 A. 2d 575, 579. It frequently happens, however, as the Court said in *Rosenthal v. United States*, 8 Cir., 45 F. 2d 1000, 1003, that an indictment charges the defendant with a conspiracy with persons unknown, even though it is not contemplated that the unknown persons will ever be prosecuted.

Of course, in order to convict on an indictment charging a conspiracy, the evidence must establish the conspiracy charged and not some other conspiracy. *Dowdy v. United States*, 4 Cir., 46 F. 2d 417; *Lefco v. United States*, 3 Cir., 74 F. 2d 66. But where an indictment alleges that two defendants conspired with other persons to the grand jury unknown, one of the defendants may be convicted, even though the other was not a party to the conspiracy, if the proof shows that some other person unknown to the grand jury was a party to it. *Worthington v. United States*, 7 Cir., 64 F. 2d 936, 939.

In the case at bar the chief witness, Reuben Maurice Jones, was known to the grand jurors, because he appeared as one of the witnesses before them. Nevertheless, his testimony showed that appellant conspired to violate the lottery laws not only with him but also with other persons who were presumably unknown to the grand jurors.

Appellant contended that the prosecution was barred by the Statute of Limitations. Prosecution for the crime of conspiracy must be commenced in Maryland within two years after the commission of the offense. Code 1951, art. [fol. 109] 27, sec. 46; *Scarlett v. State, Md.*, 93 A. 2d 753. The indictment in this case was filed on August 24, 1951. Appellant argues that Jones got out of the numbers business on Calhoun Street in March, 1948, and that his testimony as to his conversation with appellant in October, 1949, and as to the meetings held in the office of the Adams Realty Company in June, 1950, to consider starting a new numbers business was not substantial enough to prove that he conspired to violate the lottery laws after March, 1948.

If there were any doubt on this contention, it was removed by the introduction in evidence of the testimony that appellant gave before the United States Senate Crime Investigating Committee in Washington. He testified before that Committee that he did not give up the numbers busi-

ness until May, 1950. He admitted that he had about ten men who brought in the money, and that he had a book-keeper who assisted him with the records.

Appellant strongly objected to the introduction of the confession which he made before the Senate Committee. He argued that since he was subpoenaed to appear before that Committee, and since he could have been charged with a misdemeanor if he failed to appear, his confession was given under compulsion.

The Bill of Rights, which applies only to the Federal Government, contains guaranties against oppressive proceedings in criminal prosecutions. The Fifth Amendment contains the Anglo-American concept of justice that no person shall be compelled in any criminal case to be a witness against himself. Likewise, Article 22 of the Maryland Declaration of Rights declares: "That no man ought to be compelled to give evidence against himself in a criminal case."

In *Henze v. State*, 154 Md. 332, 347, 140 A. 218, the Court of Appeals held that the right of an accused person not to be compelled to give evidence against himself, as guaranteed by the Maryland Declaration of Rights, is not violated by the introduction in evidence of a confession which he voluntarily gave at a former trial for the same offense. The admissibility of testimony given at a former trial depends upon whether or not it was voluntary. To be admissible it must be voluntary, and where there is no evidence to the contrary it will be presumed that the testimony was voluntary.

Appellant cited the Act of Congress providing that every person who, having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House or any committee of either House, wilfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, is guilty of a misdemeanor. 2 U. S. C. A. sec. 192.

Appellant also relied on the Act of Congress which provides that no testimony given by a witness before either House, or before any Committee of either House, or before any Joint Committee shall be used as evidence in any crimi-

nal proceeding against him in any Court, except in a prosecution for perjury committed in giving such testimony. 18 U. S. C. A. sec. 3486.

However, we accept the decision, as announced by the Court of Appeals of the District of Columbia in *May v. United States*, 175 F. 2d 994, 1000, 1001, certiorari denied, 338 U. S. 830, 70 S. Ct. 58, 94 L. Ed. 505, that in the absence of a refusal to answer followed by compulsion to answer, no immunity from prosecution arising out of the subject matter of testimony inures to the benefit of a witness before Congress either (1) under the Fifth Amendment of the Federal Constitution, or (2) under the statute penalizing failure to testify before Congress, or (3) under the statute providing that no testimony given before Congress shall be used as evidence in any criminal proceeding.

In explaining that decision Justice Prettyman, speaking for the Court, said:

“The Fifth Amendment deals with compulsion to testify against oneself. Experience long ago demonstrated that public authorities must at times, in the public interest, obtain information which might incriminate the informant. They may compel that testimony. But they cannot violate, qualify or limit the Constitution. [fol. 111] Therefore, when they compel testimony, they cannot use it against the informant. The Constitution is rigid in this respect.

“But not all testimony given public authorities is compelled. Some is given voluntarily, and some, even though not volunteered, is supplied without objection. The Constitution says nothing about such testimony. It does not provide that what a man says voluntarily may not be used against him. So a statute which deals generally with the use of testimony falls partly within and partly without the scope of the Amendment. In so far as it relates to the use of involuntary testimony, it cannot impinge upon the prohibition of the Amendment. In so far as it relates to the use of other testimony, it is outside the scope of the Amendment and unaffected by it. The Constitution does not require that a statute dealing generally, but exclusively, with

the use of testimony be construed to prevent prosecution upon the subject matter of the testimony."

In this case appellant had testified before the Senate Committee without any claim of immunity from self-incrimination. We understand that he refused to answer one question, not material here, and one of the Senators made the comment that the Committee did not have the power to compel an answer to that question. But the testimony of appellant which was introduced in the Court below was given before the Committee voluntarily. The constitutional privilege against the giving of incriminating testimony must be asserted before an immunity is established. To be liable to the penalties of the statute requiring testimony before Congress, a witness must be asked a question and he must refuse to answer. As the Senate Committee did not compel appellant to testify, no immunity arose. Consequently his testimony was admissible in evidence at his trial. The Court did not do him any injustice by admitting statements which he himself gave voluntarily under the sanctity of an oath.

[fol. 112] Under our rules, the verdict of the court sitting without a jury must not be set aside on the evidence unless clearly erroneous. General Rules of Practice and Procedure, part 4, rule 7(c); *Edwards v. State, Md.*, 81 A. 2d 631, 639; *Kaufman v. State, Md.*, 85 A. 2d 446; *Anello v. State, Md.*, 93 A. 2d 71. Viewing the entire record, we find that the verdict of the Court was not clearly erroneous. The judgment thereon will therefore be affirmed.

Judgment Affirmed, with costs.

Filed: June 10, 1953.

[fol. 113]

Copy of Docket Entries

COURT OF APPEALS OF MARYLAND, OCTOBER TERM, 1952

No. 147

WILLIAM ADAMS

vs.

STATE OF MARYLAND

Appeal from the Criminal Court of Baltimore

Filed: February 11, 1953

June 10, 1953, Judgment Affirmed, with Costs

Opinion Filed. Op. Delaplaine, J.

June 22, 1953, Petition for Stay of Mandate Filed Pending
Decision of U. S. S. C. on Writ of Certiorari

Appellant's Cost in the Court of Appeals of Maryland,

Clerk's Cost	\$ 10.00
Brief	\$571.46
Appearance Fee	\$ 10.00

\$591.46

Appellee's Cost in the Court of Appeals of Maryland,

Brief	\$147.50
Appearance Fee	\$ 10.00

157.50 \$748.96

STATE OF MARYLAND, Sct:

I, Maurice Ogle, Clerk of the Court of Appeals of Maryland, do hereby certify that the foregoing is truly taken from the record and proceedings of the said Court of Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Appeals, this twenty-eighth day of July A. D. 1953.

Maurice Ogle, Clerk of the Court of Appeals of Maryland. (Seal.)

[fol. 114] Clerk's Certificate to foregoing transcript omitted in printing.

(9727)

BLEED THROUGH- POOR COPY

[fol. 109] SUPREME COURT OF THE UNITED STATES, OCTOBER
TERM, 1953

No. 271

WILLIAM ADAMS, Petitioner,

vs.

STATE OF MARYLAND

ORDER ALLOWING CERTIORARI—Filed October 26, 1953

The petition herein for a writ of certiorari to the Court of Appeals of the State of Maryland is granted, limited to question Number 1 presented by the petition for the writ.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

(1690)